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## COVER NOTE

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| From:            | Mr Vítor CALDEIRA, President of the European Court of Auditors  |
| date of receipt: | 18 November 2015  |
| To:              | Mr Jean ASSELBORN, President of the Council of the European Union   |
| Subject:         | Report on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2014 together with the Joint Undertaking's replies |

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Delegations will find attached the European Court of Auditors' report on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2014.

This report is accompanied by the Joint Undertaking's replies and will shortly be published in the *Official Journal of the European Union*.

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Encl.: Report on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2014 together with the Joint Undertaking's replies.<sup>1</sup>

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<sup>1</sup> In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.



EUROPEAN  
COURT  
OF AUDITORS

Report on the annual accounts of the European Joint Undertaking for ITER and  
the Development of Fusion Energy

for the financial year 2014

together with the Joint Undertaking's replies

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## INTRODUCTION

1. The European Joint Undertaking for ITER<sup>1</sup> and the Development of Fusion Energy (F4E) was set up in March 2007<sup>2</sup> for a period of 35 years. While the main fusion facilities are to be developed at Cadarache in France, the Joint Undertaking is located in Barcelona.
2. The tasks of the Joint Undertaking are<sup>3</sup>:
  - (a) to provide the contribution of Euratom to the ITER International Fusion Energy Organisation<sup>4</sup>;
  - (b) to provide the contribution of Euratom to 'Broader Approach' (complementary joint fusion research) activities with Japan for the rapid development of fusion energy;
  - (c) to prepare and coordinate a programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities, including the International Fusion Materials Irradiation Facility.
3. The members of the Joint Undertaking are Euratom, represented by the European Commission, the Member States of Euratom and other countries which have concluded cooperation agreements with Euratom in the field of controlled nuclear fusion (as of 31 December 2014: Switzerland).

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<sup>1</sup> ITER: International Thermonuclear Experimental Reactor.

<sup>2</sup> 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, 30.3.2007, p. 58), amended by Council Decision 2013/791/Euratom of 13 December 2013 (OJ L 349, 21.12.2013, p. 100) and Council Decision (Euratom) 2015/224 of 10 February 2015 (OJ L 37, 13.2.2015, p. 8).

<sup>3</sup> The Annex summarises the Joint Undertaking's competences, activities and available resources. It is presented for information purposes.

<sup>4</sup> The ITER International Fusion Energy Organisation was set up in October 2007 for an initial period of 35 years to implement the ITER project, which aims to demonstrate the scientific and technological feasibility of fusion energy. Its Members are Euratom, the People's Republic of China, the Republic of India, Japan, the Republic of Korea, the Russian Federation and the United States of America.

## **INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE**

4. The audit approach taken by the Court comprises analytical audit procedures, testing of transactions at the level of the Joint Undertaking and an assessment of key controls of the supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

### **STATEMENT OF ASSURANCE**

5. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- (a) the annual accounts of the Joint Undertaking for ITER and the Development of Fusion Energy<sup>5</sup>, which comprise the financial statements and the reports on the implementation of the budget<sup>6</sup> for the financial year ended 31 December 2014, and
- (b) the legality and regularity of the transactions underlying those accounts.

#### *The management's responsibility*

6. In accordance with Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013<sup>7</sup>, the management is responsible for the preparation and fair presentation of the annual accounts of the Joint Undertaking and the legality and regularity of the underlying transactions.

- (a) The management's responsibilities in respect of the Joint Undertaking's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, selecting and applying appropriate accounting policies on the basis of the

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<sup>5</sup> These include the balance sheet and the statement of financial performance, the cash-flow table, the statement of changes in net assets, a summary of the significant accounting policies and other explanatory notes.

<sup>6</sup> These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

<sup>7</sup> OJ L 328, 7.12.2013, p. 42.

accounting rules adopted by the Commission's accounting officer<sup>8</sup>, and making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Joint Undertaking after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, inter alia, that he has reasonable assurance that they present a true and fair view of the financial position of the Joint Undertaking in all material respects.

- (b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound financial management consist of designing, implementing and maintaining an effective and efficient internal control system comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

*The auditor's responsibility*

7. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council<sup>9</sup> with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Joint Undertaking are free from material misstatement and the underlying transactions are legal and regular.

8. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that

<sup>8</sup> The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

<sup>9</sup> Article 107 of Regulation (EU) No 1271/2013.

are implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the reasonableness of accounting estimates and the overall presentation of the accounts.

9. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinions set out below.

***Opinion on the reliability of the accounts***

10. In the Court's opinion, the Joint Undertaking's annual accounts present fairly, in all material respects, its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its financial rules and the accounting rules adopted by the Commission's accounting officer.

***Opinion on the legality and regularity of the transactions underlying the accounts***

11. In the Court's opinion, the transactions underlying the annual accounts of the Joint Undertaking for the year ended 31 December 2014 are, in all material respects, legal and regular.

***Emphasis of Matter***

12. Without calling into question the opinions expressed in paragraphs 10 and 11, the Court draws attention to the following. The Council conclusions adopted on 7 July 2010<sup>10</sup> approved 6,6 billion euro (in 2008 values) for the Joint Undertaking contribution to the ITER construction phase of the project. This figure, which doubled the initial budgeted costs for this phase of the project, did not include 663 million euro proposed by the European Commission in 2010 to cover potential contingencies<sup>11</sup>.

13. The complexity of F4E activities<sup>12</sup> implies that the amount of the Joint Undertaking contribution to the construction phase of the project is exposed to significant risks of increase<sup>13</sup>. These risks

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<sup>10</sup> Council conclusions on ITER status of 7 July 2010 (Ref.11902/10).

<sup>11</sup> Communication from the Commission to the European Parliament and the Council of 4 May 2010 on ITER status and possible way forward (COM(2010) 226 final).

<sup>12</sup> This results in particular from the innovative engineering solutions and technical challenges of many of the in-kind contributions to be provided to ITER International Organisation (ITER IO)

mainly result from changes in the scope<sup>14</sup> of the project deliverables and delays in the current schedule which is considered unrealistic<sup>15</sup>. The release of a new ITER project baseline (scope, schedule and costs) by ITER IO Council<sup>16</sup>, planned for June 2015, has been postponed until November 2015. The slippage for the construction phase of the project was estimated by the Joint Undertaking at the time of the audit (March 2015) to be at least 43 months.

14. The latest estimate of the shortfall (“negative contingency”) until the finalisation of the construction phase, calculated by the Joint Undertaking in November 2014, was 428 million euro (2008 values)<sup>17</sup>. F4E is currently working on a more accurate and updated estimate.

15. The Joint Undertaking is still developing a central and uniform system to integrate all the operational data and to allow regular monitoring and controlling of estimates, costs and deviations<sup>18</sup>. Moreover, it has not updated the valuation of the Joint Undertaking contribution to the ITER project beyond the finalisation of the construction phase.

16. As a result of the challenges currently faced by the ITER project, the new Director General of ITER IO presented to the ITER Council an action plan with specific measures to address the main

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and from the changes in technical specifications and in scope, which are the remit of ITER IO and over which F4E has little or no control.

<sup>13</sup> As also reported in the Fusion for Energy Progress Report to the Council of the European Union of November 2014 and in the 3<sup>rd</sup> Annual assessment of Fusion for Energy-Report to the Council of the European Union of November 2014.

<sup>14</sup> As regards the changes in the scope of the in-kind contributions to be provided to ITER IO, the current mechanism for compensating the cost increases resulting from these changes continues to be a matter of contention between ITER IO and F4E, with the latter considering that the current system is not applied in the intended manner and that F4E is left with uncompensated cost increases (2014 Fusion for Energy Progress Report to the Council of the European Union November 2014).

<sup>15</sup> Paragraph 12, footnote 12, of the Court’s 2013 report (OJ C 452, 16.12.2014, p. 44).

<sup>16</sup> The Council of the ITER International Organisation (IO).

<sup>17</sup> This represents a deviation of 7,2 % over the figure approved by the Council in 2010 (Fusion for Energy Progress Report to the European Competitiveness Council of November 2014). The increase in relation to the deviation reported in November 2013 (290 million euros) is of 138 million euro, mostly due to additional resources to ITER IO, and an additional contribution to Japan related to the EU procurements transferred to Japan, unforeseen in the initial cost baseline (see paragraph 2.7 of the 2014 F4E Accounts).

<sup>18</sup> See paragraph 20.



constraints that are currently affecting the development of the project<sup>19</sup>. As regards F4E Joint Undertaking, the new Acting Director<sup>20</sup> presented to the Governing Board a F4E action plan which largely supports the ITER IO action plan<sup>21</sup>. At the time of the audit, the practical measures for the implementation of both action plans were still being defined.

17. The comments which follow do not call the Court's opinions into question.

## **COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT**

### ***Financial statements***

18. In the notes to the financial statements, the table and the information included under heading 4.3.1.1. 'ITER Procurement Arrangement (ITER IO)', reflects the Procurement Arrangements signed (Column 3) and the Procurement Arrangements credited so far (Column 4). However, the table does not show the degree of advancement of the works in-progress and the text contains limited information. This is essential to reflect the status and value of the activities carried out so far by the Joint Undertaking.

### ***Implementation of the budget***

19. The final 2014 budget available for implementation included commitment appropriations of 1 168,8 million euro and payment appropriations of 567,6 million euro. The utilisation rates for commitment and payment appropriations were 100 % and 88,5 % respectively. However, the implementation rate for payment appropriations with respect to the 2014 initial budget was 73 %<sup>22</sup>. Regarding commitment appropriations of 1 125,2 million euro

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<sup>19</sup> On 5 March 2015 the ITER IO Council appointed the new Director General and endorsed the 2015 ITER IO action plan.

<sup>20</sup> The new Acting Director was appointed by the Governing Board of F4E on 3 December 2014 for a period of 1 year starting 1 March 2015, pending the selection process of a new Director.

<sup>21</sup> The Governing Board of F4E has endorsed the main principles set out in the F4E Action Plan and, in particular, the measures to support the creation of a new integrated organisation as envisioned by the new ITER IO DG, and requested the examination of any legal issue regarding the implementation of the action plan.

<sup>22</sup> The initial budget available for payment appropriations adopted on 11 December 2013 was 698 million euro. It was then reduced to 567,6 million euro in the amending budgets of 11 June

available for operational activities, 23 % were implemented through direct individual commitments while the remaining 77 % were implemented through global commitments. The low rate of implementation by individual commitment is explained by the overall slippage of the ITER project and the multiple change requests coming from ITER IO..

### **COMMENTS ON KEY CONTROLS OF THE JOINT UNDERTAKING'S SUPERVISORY AND CONTROL SYSTEMS**

20. The Court of Auditors notes that significant progress has been achieved in many areas. At the time of the audit (March 2015), F4E was still addressing a number of key actions for the management of the Joint Undertaking:

- F4E is still developing a central and uniform system to integrate all the operational data and to allow for estimates and cost deviations to be regularly monitored and controlled, including the system to estimate the value of each work item at contract level. At the time of the audit, F4E had completed an update of its cost baseline<sup>23</sup> at level 4 of the Working Base Structure (WBS) but not at contract level (level 6). In addition, the system to provide information on the degree of implementation of the activities (Earn Value Management) still has to be developed.
- The action plans adopted by the Joint Undertaking, in response to the internal audits on the financial circuits, grant management and expert contracts, were fully or mostly implemented at the time of the audit (March 2015). As regards the overall status of all the actions plans adopted by F4E in response to the internal audits carried out so far<sup>24</sup>,

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and 3 December 2014, mainly because of delays in the implementation of the activities related to the ITER construction budget chapter.

<sup>23</sup> Cost Baseline (CB) as defined in footnote 3 of the 2014 Progress Report to the Council of the European Union: *“The amount of money a project, a work breakdown structure component, a work package, or a schedule activity was estimated to cost when the Project Baseline was established. It reflects the cost estimates that were originally at the base of the 6,6 Billion Euro F4E budget, appropriately updated to add only the estimated costs associated with any scope changes that have occurred up to now. It is the reference against which F4E cost performance will be measured. The CB for a given amount of scope is given with a cost Probability Density Function (PDF).”*

<sup>24</sup> Internal audits on financial circuits, grant management, expert contracts, operational pre-procurement activities, procurement in the area of ITER buildings, selection and recruitment,

at the date of the audit, out of 46 recommendations still in progress, the deadline for implementation of 29 recommendations was overdue.

- In 2014 the Joint Undertaking Internal Audit Capability (IAC) performed a review of the monitoring of contract implementation in the area of the ITER buildings<sup>25</sup> and outlined the existence of important risk factors such as the immature design of some of the ITER activities, the large number of project change requests, the unrealistic project schedule and the current delay in the implementation of the activities. It is difficult for F4E to mitigate some of these risks effectively, as their ownership belongs to ITER IO. The review also identified that stronger controls and changes to processes are needed, in particular in management and change control, financial management of contracts and the management of non-conformities.
- The European Commission's Internal Audit Service (IAS) carried out a limited review on the contract management <sup>26</sup> and outlined that F4E is moving from an organisation which is mainly procurement-oriented to an organisation which mainly manages contracts. While the review concluded that F4E is progressing in establishing entity-wide controls to address the risks related to the implementation of the contracts, it also identified a certain number of areas where the controls in place are not yet mature enough, in particular as regards the management of contract amendments and contingencies.
- The F4E internal corporate risk management system identified ten new risks in 2014. Of the 32 actions identified as at October 2014 to address the six very high risks, 13 actions

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monitoring of contract implementation in the area of ITER buildings, preparation of procurement arrangements in the EU JU for ITER and the development of fusion energy, review of the competitive dialogue procedure for the procurement of Tender Batch 03 (Tokamak Buildings) and limited review on contracts management.

<sup>25</sup> F4E Internal Audit Capability review on monitoring of contracts implementation in the area of ITER buildings of October 2014.

<sup>26</sup> IAS Limited Review of Contracts Management- Entity-wide Controls in the European Joint Undertaking for ITER and the Development of Fusion Energy of October 2014.

were implemented, nine actions were in progress, one action was cancelled as obsolete and nine actions had not started.

### ***Operational procurement and grants***

21. Negotiated procedures constituted 58 % of the 67 operational tendering procedures launched in 2014 (44 % in 2013). Although the Joint Undertaking operates in a very specialised technical field, it still needs to increase the competitiveness of procurement procedures. Regarding grants, the average number of proposals received was only one per call.

22. Five operational procurement procedures were audited. The following weaknesses were identified:

- With one exception, F4E failed to provide the amount allocated to the different contracts from the 6,6 billion euro capped budget at the time of launching the procedure. In addition, nor did it provide the value for the estimate at completion (EAC)<sup>27</sup> of these activities. This information is essential to calculate the cost deviations from the capped budget.
- In one case, the deviation of the awarded value of the contract over the cost baseline was 29 % (12,4 million euro in 2008 values). This deviation was not reported in the evaluation committee report.
- Deficiencies were found in the assessment of the financial offers by the evaluation committee. In one case, neither the contract options (amounting to 32 million euro) nor the additional costs to be incurred were taken into consideration in the assessment. In

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<sup>27</sup> EAC as defined in footnote 4 of the 2014 Progress Report to the Council of the European Union: *“The expected total cost of a scheduled activity, a work breakdown structure component, or the project when the defined scope of work is completed. In practice it covers all the most up to date cost estimates of F4E’s activities, including real costs of finished contracts, updated total cost estimates of current contracts, as well as forecast costs of future contracts. Thus the EAC also includes the cost of expected changes and of risks that may materialise during the execution of the current and future contracts. The EAC is given with a cost Probability Density Function (PDF).”*

another case, the offers were not compared against the allocated value from the capped budget or against the cost baseline. In none of the procedures reviewed did the evaluation committee reports state the EAC for these contracts.

- The performance of one procurement procedure was affected by a 21 month delay beyond the target date for completion. In two other procurement procedures, the contracts were awarded 10 and 5 months after the target date.
- In one procurement procedure, the Joint Undertaking had to include an unforeseen and unbudgeted activity in the 2014 work programme<sup>28</sup>. The value of the additional contract was 2,88 million euro.
- In one procurement procedure, the assessment of the technical award criteria provided by the evaluation committee in the evaluation report was too generic and the comments recorded were not sufficiently detailed to support the scores awarded.
- In three procurement procedures, although the Joint Undertaking published the corresponding contract notices and carried out a number of pre-procurement activities, it did not advertise the contracts by means of a pre information notice in order to increase visibility and competition, as advised by the Commission Vademecum on public procurement.

### ***Overall control and monitoring of operational procurement contracts and grants***

23. The Joint Undertaking has a system for performing audits<sup>29</sup> at the level of contractors with the aim of checking compliance with quality assurance requirements<sup>30</sup>.

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<sup>28</sup> This resulted from the Joint Undertaking having to bear the cost of a failure in the production phase of the component.

<sup>29</sup> Of the 19 quality audits carried out in 2014, 17 were closed by March 2015. The audits identified 21 situations of non-conformity with the procedures and 129 areas for improvement.

<sup>30</sup> The audits covered the quality plan, situations of non-conformity (any condition that does not comply with a specified requirement), purchase control and subcontracting management, documentation and data management, changes and deviations management, the civil works

24. As regards the overall control and monitoring of operational contracts (including financial and compliance verification), the Internal Audit Capability and the European Commission's Internal Audit Service covered this area in their 2014 audit plans<sup>31</sup>.

25. As regards ex-post audits on grants (as part of the F4E overall control and monitoring strategy), the exercise was not concluded at the time of the Court's audit.

## **OTHER MATTERS**

### ***Legal framework***

26. The new Financial Regulation applicable to the general budget of the Union<sup>32</sup> was adopted on 25 October 2012 and took effect on 1 January 2013<sup>33</sup>. The framework financial regulation for the bodies<sup>34</sup> referred to in Article 208 of the new Financial Regulation entered into force on 8 December 2013. At the time of the audit, the financial rules of the Joint Undertaking have not yet been amended to reflect these changes.

### ***Annual activity report***

27. The Chair of F4E Governing Board refers in the 2014 annual activity report to the need to pursue all cost containment actions, while the Executive Director refers to the system of internal control being further enhanced and improved in order to appropriately mitigate the risks observed by the European Court of Auditors in the "Emphasis of Matter" section of their 2013 annual report<sup>35</sup>.

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quality control plan, the detailed project schedule, contract risk management and the technical works quality control plan.

<sup>31</sup> See paragraph 20, points 4 and 5.

<sup>32</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

<sup>33</sup> Article 214 of Regulation (EU, Euratom) No 966/2012 with the exemptions referred to.

<sup>34</sup> OJ L 38, 7.2.2014, p. 2.

<sup>35</sup> Paragraph 30 of the Court's 2013 report (OJ C 452, 16.12.2014, p. 50).

## **FOLLOW-UP OF PREVIOUS OBSERVATIONS**

### ***Intellectual property rights and industrial policy***

28. The Decision on the implementation of the Fusion for Energy Industrial Policy and the Policy on Intellectual Property Rights and dissemination of information was adopted by the Joint Undertaking's Governing Board on 27 June 2013.

29. Several actions in relation to the implementation of intellectual property rights and industrial policy were finalised in 2014<sup>36</sup> while some others are still being implemented<sup>37</sup>, and three were pending further developments<sup>38</sup>. Once the actions are implemented, F4E plans to carry out an impact assessment exercise in order to measure the impact of the different measures on the achievement of industrial policy objectives.

30. One of the measures adopted by F4E in 2013, in order to attract the interest of the industry in the ITER project and to increase competition, is to offer contractors exclusive rights to the exploitation of the Intellectual Property they produce in fields outside fusion and non-exclusive rights in the field of fusion.

31. To mitigate the risks related to the obligation for the Joint Undertaking to retain the right to access the full Intellectual Property Rights (background and foreground) involved in the European in-kind contributions and to be able to transfer this access right to the ITER organization when required, the Joint Undertaking has adopted specific contractual clauses applicable to F4E activities.

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<sup>36</sup> Inter alia on explicit limitation of liability for indirect/consequential damages to the value of the contract price; payment by F4E of additional costs incurred by the contractor as a consequence of the change in the applicable legislation; sharing of risks for errors in the input technical documentation; indemnity to contractors in the event of suspension of the contract over a minimum defined period; reimbursement of additional costs incurred by the contractor in the event of delays in the supply of the free-issue items; plan for the improvement of F4E Industry Portal and the implementation of further e-procurement solutions; Developing harmonised guidelines for the definition and application of selection and award criteria.

<sup>37</sup> Guidelines on financial compensation for participation in a competitive dialogue.

<sup>38</sup> Extended waiver from nuclear liabilities; transition to mostly performance-based procurements; and exploring the possibility of a two-stage Competitive Dialogue.

### ***Conflicts of interest***

32. The Rules on the management of conflicts of interest regarding staff members were adopted by F4E Governing Board and entered into force on 1 July 2014<sup>39</sup>. In accordance with Article 6 of the Conflict of Interest Rule, a register has been established to monitor the main cases, with information on the staff member concerned, the type of conflict of interest and the situation giving rise to the conflict of interest. It has also set up the database for the general declaration of interest forms, referred to in Article 7 of the Conflict of Interest Rules

### ***Host State agreement***

33. According to the Host State Agreement signed with the Kingdom of Spain on 28 June 2007, permanent premises should have been made available to the Joint Undertaking by June 2010. Following contacts between F4E and the Spanish Government, a formal offer was presented to the Joint Undertaking on 10 March 2015. The offer was presented to the Governing Board on 19 March and discussions with the Spanish authorities are currently taking place.

### ***Rules implementing the Staff Regulations***

34. During 2014, the Joint Undertaking adopted several EC rules implementing the Staff Regulations<sup>40</sup>. At the time of the audit (March 2015), some specific EC rules were still to be adopted<sup>41</sup>.

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<sup>39</sup> Decision of the Governing Board of Fusion for Energy adopting the rules on the prevention and management of conflicts of interest regarding staff members of the joint undertaking.

<sup>40</sup> In particular as regards pensions, remunerations and allowances, working conditions, medical expenses, ethics and conduct and staff assigned outside the EU.

<sup>41</sup> Inter alia on recruitment of temporary agents, use and engagement of contract staff, and procedures for the appraisal of officials and promotions.



This Report was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 20 October 2015.

*For the Court of Auditors*

Vítor Manuel da SILVA CALDEIRA

*President*

**European Joint Undertaking for ITER and the Development of Fusion Energy (Barcelona)****Competences and activities**

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| <p><b>Areas of Union competence deriving from the Treaty</b><br/>(Articles 45 and 49 of the Treaty establishing the European Atomic Energy Community)</p>                         | <p>Chapter 5, on 'Joint Undertakings', of the Treaty establishing the European Atomic Energy Community, and in particular:</p> <p style="text-align: center;">Article 45</p> <p><i>"Undertakings which are of fundamental importance to the development of the nuclear industry in the Community may be established as Joint Undertakings within the meaning of this Treaty, in accordance with the following Articles ..."</i></p> <p style="text-align: center;">Article 49</p> <p><i>"Joint Undertakings shall be established by Council decision. Each Joint Undertaking shall have legal personality."</i></p>  |
| <p><b>Competences of the Joint Undertaking</b><br/>(Council Decision 2007/198/Euratom, amended by Council Decision 2013/791/Euratom and by Council Decision/Euratom 2015/224)</p> | <p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>– To provide the contribution of the European Atomic Energy Community (Euratom) to the ITER International Fusion Energy Organisation;</li> <li>– to provide the contribution of Euratom to Broader Approach activities with Japan for the rapid realisation of fusion energy;</li> <li>– to prepare and coordinate a programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities, including the International Fusion Materials Irradiation Facility (IFMIF).</li> </ul> <p><b>Tasks</b></p> <ul style="list-style-type: none"> <li>– Oversee preparation of the ITER project site;</li> <li>– provide components, equipment, materials and other resources to the ITER Organisation;</li> <li style="padding-left: 20px;">manage procurement arrangements vis-à-vis the ITER Organisation and, in particular associated quality assurance procedures;</li> <li>– prepare and coordinate Euratom's participation in the scientific and technical exploitation of the ITER project;</li> <li>– coordinate scientific and technological research and development activities in support of Euratom's contribution to the ITER Organisation;</li> <li>– provide Euratom's financial contribution to the ITER Organisation;</li> <li>– arrange to make human resources available for the ITER Organisation;</li> <li>– interface with the ITER Organisation and carry out any other activities in furtherance of the ITER Agreement.</li> </ul> |
| <p><b>Governance</b></p>  | <p><b>Governing Board, Director and other bodies</b></p> <p>The Governing Board is responsible for the supervision of the Joint Undertaking in the pursuit of its objectives and ensures close collaboration between the Joint Undertaking and its members in the</p>  |

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|  | <p>implementation of its activities. Together with the Governing Board and the Director, who is the chief executive officer responsible for the day-to-day management of the Joint Undertaking and its legal representative, the Joint Undertaking has several bodies:</p> <p>Bureau, Technical Advisory Panel, Executive Committee, Administration &amp; Finance Committee, Audit Committee.</p> <p><b>Internal auditor:</b> internal audit capability and the European Commission's Internal Audit Service (IAS) since 1 January 2012.</p> <p><b>External auditor:</b> European Court of Auditors.</p> <p><b>Discharge authority:</b> the European Parliament, on a recommendation from the Council.</p> |
| <p><b>Resources available to the Joint Undertaking in 2014</b></p> | <p><b>Budget</b></p> <p>550,6 million euro final revenue (payment appropriations) of which 77 % funded by Community contribution.</p> <p><b>Staff at 31 December 2014</b></p> <p>262 EU official and temporary agent posts provided for in the establishment plan, of which 249 posts were occupied;</p> <p>144 contract agent posts occupied.</p>   |
| <p><b>Activities and services provided in 2014</b></p>             | <p>For detailed information concerning the activities and services provided in 2014, please consult the F4E website at <a href="http://www.fusionforenergy.europa.eu/">http://www.fusionforenergy.europa.eu/</a></p>   |

*Source:* European Joint Undertaking for ITER and the Development of Fusion Energy.