



Council of the
European Union

Brussels, 18 December 2020
(OR. en)

14217/20

Interinstitutional File:
2018/0235(NLE)

RECH 537
COMPET 652
ATO 90
CADREFIN 467

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 18 December 2020
To: Delegations

No. prev. doc.: 13741/20 RECH 503 COMPET 618 ATO 85 CADREFIN 426
No. Cion doc.: 9868/18 RECH 273 COMPET 423 ATO 32 CADREFIN 80 + ADD 1-2

Subject: 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 (18 December 2020)

Delegations will find attached the Political agreement reached by the Permanent Representatives Committee at its meeting held on 18 December 2020 on the 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.

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 paragraphs of Article 47 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The ITER Agreement¹ has been signed in November 2006 by Euratom, the United States, the Russian Federation, Japan, China, South Korea and India. Euratom, which is according to the ITER Agreement the Host Party, has taken the lead in this project.
- (2) 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 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.

¹ OJ L 358, 16.12.2006, p.62.

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

- (3) Decision 2007/198/Euratom provides in its Article 5 that the Joint Undertaking shall have a distinct financial regulation based on the principles of the Framework Financial Regulation³ which may depart from the latter where the specific operating needs of the Joint Undertaking so require and subject to prior consultation with the Commission. Title IV of the financial regulation of the Joint undertaking regulates the implementation of the budget.
- (4) 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 or through any other decision adopted by the Council.
- (5) Decision 2007/198/Euratom was amended by Decision 2013/791/Euratom⁴ to allow a financing of the Fusion for Energy activities for the duration of the Multi-annual Financial Framework 2014-2020.
- (6) A new ITER project baseline, prepared as part of the improvements in the management of the project, gained the support of the ITER Council in 2016 and 2017 and was subsequently used for estimating the funding needs of the Joint Undertaking. The updated schedule of the new baseline foresees the achievement of First Plasma in December 2025 and full performance operation, using deuterium-tritium fuel, in 2035. This schedule does not include contingencies and therefore assumes that all major risks have to be mitigated.

³ Commission Delegated Regulation (EU) N° 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) N° 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

⁴ Council Decision of 13 December 2013 amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (2013/791/Euratom) (OJ L349, 31.12.2013, p. 100).

- (7) On 12 April 2018 the Council reaffirmed the continued commitment of Euratom to the successful completion of the ITER project and mandated the Commission to approve the new ITER project baseline on behalf of Euratom at an ITER Council meeting at Ministerial level. At the same time, the Council requested that the Joint Undertaking continues its reporting and review duties in line with the Council conclusions of 12 July 2010 and carries out regular independent assessments of the progress of ITER with a focus on the performance and project management, including cost containment, schedule project control as well as risk management.
- (8) This Decision will allow synergies and complementarities with fusion research activities funded through the Euratom Research and Training Programme. The successful construction and operation of ITER is on the critical path of the European fusion roadmap endorsed by all fusion research stakeholders in Europe.
- (9) The European Parliament and the Council set the maximum level of the Euratom commitments for ITER in the Multiannual Financial Framework for the period 2021-2027 at EUR 5.614.000.000 (in current prices).
- (10) In full respect of the Member States' right to decide on their energy mix, actions under this Decision can contribute to the realisation of the objectives of the European fusion roadmap.
- (11) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate ITER on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of ITER. The conclusions of the evaluations carried out by the Commission will be communicated to the European Parliament the Council, the European Economic and Social Committee and the Committee of the Regions. Should the timings of the ex post and interim evaluations be close to each other, both evaluations could be combined into a single one covering the combined period.

(12) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵, and Council Regulations (EC, Euratom) No 2988/95⁶, (Euratom, EC) Council Regulation No 2185/96⁷ and (EU) Council Regulation 2017/1939⁸, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council⁹. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1039, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

⁵ 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 248, 18.9.2013, p. 1).

⁶ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).

⁷ 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).

⁸ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO") (OJ L 283, 31.10.2017, p. 1).

⁹ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (13) This Decision should ensure the visibility of the Community funding through coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
- (14) It is necessary to amend Decision 2007/198/Euratom to allow the financing of the activities of the Joint Undertaking and the related activities of the Commission for the period 2021-2027 from the general budget of the European Union.
- (15) 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, paragraph 3 is replaced by the following:

3. The indicative Euratom contribution to the Joint Undertaking for the period 2021-2027 and the related supporting expenditure for the same period as referred to in paragraph 4 are set at EUR 5.614.000.000 (in current prices).

- (2) The following paragraph 4 is added:

4. The amount referred to in paragraph 3 may also cover expenses for preparation, monitoring, control, audit, evaluation and other activities and expenditures necessary for managing and implementing this Decision, including administrative expenditure, as well as evaluating the achievement of its objectives. It may moreover cover expenses relating to the studies, meetings of experts, as well as expenses linked to information technology networks focusing on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of this Decision.

- (3) Article 5b is deleted.
- (4) The following Article 5c is inserted:

Article 5c

Evaluation

1. Evaluations shall be carried out regularly and in a timely manner to feed into the decision-making process.
2. An interim evaluation shall be performed once there is sufficient information available about the implementation of the Decision in the period 2021 - 2027, but no later than 2024.
3. At the end of the implementation of this Decision, but no later than four years after the end of the period specified in Article 4, a final evaluation of the Decision shall be carried out by the Commission.
4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

(5) The following Article 5d is inserted:

Article 5d

Communication, visibility and publicity

1. The recipients of Community funding shall acknowledge the origin of those funds and ensure the visibility of the Community funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to this Decision, to actions taken pursuant to this Decision and to the results obtained. Financial resources allocated to this Decision shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 1.

Article 2

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

It shall apply from 1 January 2021.

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

The President
