



**COUNCIL OF
THE EUROPEAN UNION**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: 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

COUNCIL DECISION No .../2013/EU

of

**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) Council Decision 2007/198/Euratom¹ established the European Joint Undertaking for ITER and the Development of Fusion Energy (the "Joint Undertaking") to provide the contribution of the European Atomic Energy Community ("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 provides for 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 Euratom research and training programmes adopted pursuant to Article 7 of the Euratom Treaty.
- (3) The resources deemed necessary for the Joint Undertaking during the ITER construction phase, covering the 2007-2020 period, amounted to EUR 7 200 000 000 (in 2008 value) in March 2010. In July 2010, the Council capped this amount to EUR 6 600 000 000 (in 2008 value).

¹ 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).

- (4) The European Parliament and the Council set the maximum level of the Euratom commitments for ITER in the Multiannual Financial Framework for the 2014-2020 period 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 2014-2020 period 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 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 by around the middle of the century. Therefore, in order to fulfil its tasks, the Joint Undertaking should maintain a close working relationship with the European entities implementing this roadmap.

- (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 European Parliament and the Council 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) Article 4 is amended as follows:

(a) paragraph 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."

(b) in paragraph 2, the following subparagraph is added:

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

(c) paragraph 3 is replaced by the following:

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

(d) paragraph 4 is deleted.

(2) the following Articles are inserted:

"Article 5a

Protection of the 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 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 OLAF to conduct audits, on-the-spot checks and inspections.

Article 5b

Mid-term review

The Commission shall submit to the European Parliament and to the Council, 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 4(3) as regards commitments and expenditure.

* 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).

** 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).

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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,

For the Council
The President
