
**DECISION OF THE GOVERNING BOARD OF FUSION FOR ENERGY ADOPTING A
NEW FINANCIAL REGULATION AND IMPLEMENTING RULES**

THE GOVERNING BOARD OF THE EUROPEAN JOINT UNDERTAKING FOR ITER AND THE DEVELOPMENT OF FUSION ENERGY,

Having regard to the Council Decision (EURATOM) No 198/2007 of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy (hereinafter "the Joint Undertaking") and conferring advantages upon it,⁶ as amended on 13 December 2013,⁷ (hereinafter "the Constituent instrument") and in particular Article 5 thereof,

Having regard to the Statutes annexed to the Constituent instrument (hereinafter "the Statutes") and in particular Article 6(3)(h), Article 13, and Annex III thereof,

Having regard to the Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013, on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, EURATOM) 966/2012 of the European Parliament and of the Council⁸ (hereinafter "the Framework Financial Regulation"),

Having regard to Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, EURATOM) No 1605/2002⁹ (hereinafter "the General Financial Regulation"),

Having regard to Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union¹⁰ (hereinafter "the Rules of Application"),

Having regard to the Governing Board Decision of 22 October 2007 adopting the Financial Regulation of the European Joint Undertaking for ITER and the Development of Fusion Energy,¹¹ as last amended by Decision of the Governing Board on 24-25 November 2011,¹²

Having regard to the Governing Board Decision of 22 October 2007 adopting the Implementing Rules of the Financial Regulation of the European Joint Undertaking for ITER and the Development of Fusion Energy,¹³ as last amended on 19 March 2015,¹⁴

Having regard to the recommendation of the Administration and Management Committee of 10 November 2015,¹⁵

Having regard to the prior consultation with the Commission,

WHEREAS: _____

⁶ OJ L 90, 30.3.2007, p. 58.

⁷ 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 L 349, 21.12.2013, p. 100.

⁸ OJ L 328, 7.12.2013, p.42.

⁹ OJ L 298, 26.10.2012, p.1.

¹⁰ OJ L 362, 31.12.2012, p.1.

¹¹ F4E(07)-GB03-11.

¹² F4E(11)-GB21-10b.

¹³ F4E(07)-GB03-12.

¹⁴ F4E(15)-GB31-09.8.

¹⁵ F4E(15)-AMC02 - Summary.

- (1) The Joint Undertaking shall have a distinct financial regulation based on the principles of the Framework Financial Regulation, 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.
- (2) Given the high cost and the duration of some individual legal commitments, in particular for the implementation of the ITER Project and notwithstanding the principle of annuality, the commitment appropriations covering the total cost of the legal commitments may be made in annual installments.
- (3) To ensure the overall implementation of the Joint Undertaking's tasks and activities, in particular the implementation of the ITER Project, the cancelled commitment appropriations should be entered in the estimate of revenue and expenditure of the following financial years.
- (4) The internal audit function within the Joint Undertaking should be performed by its own internal audit service in accordance with point 3 of Annex III of the Statutes.
- (5) In accordance with point 9 of Annex III of the Statutes, the specific operating needs of the Joint Undertaking stemming, in particular, from the contribution of high technological and experimental components and services under the terms of international agreements and associated procedures, require a partial departure from the relevant provisions laid down in the general Financial Regulation and the rules implementing that Regulation for the award of contracts related to the implementation of its tasks referred to in Article 1(2) of the Constituent instrument.
- (6) In accordance with Article 5 of the Statutes and point 5(k) of Annex III thereto, the Joint Undertaking may award grants in furtherance of its tasks and activities and pursuant to the Framework Financial Regulation and will do so under the relevant provisions laid down in the General Financial Regulation and the rules implementing that Regulation, except where the specific operating needs of the Joint Undertaking so require.
- (7) The in-kind contributions the Joint Undertaking shall provide to the ITER project often require long-term research and development, design and prototyping input which can only be obtained through an enduring and stable cooperation between the Joint Undertaking and its beneficiaries implemented through framework partnership agreements which exceed, by way of a broad derogation, the usual four year limitation, on the understanding that competition is regularly re-opened where possible.
- (8) In accordance with Article 11 and point 5(b) of Annex III of the Statutes, the specific multi-annual nature of the tasks of the Joint Undertakings requires the establishment of a project plan and resource estimates plan.

HAS ADOPTED THIS DECISION:

Article 1

The Financial Regulation and Implementing Rules of the Joint Undertaking attached hereto as annexes I and II respectively are hereby adopted.

Article 2

This Decision shall enter into force the day after a positive Commission opinion regarding the Financial Regulation and Implementing Rules of the Joint Undertaking is issued.

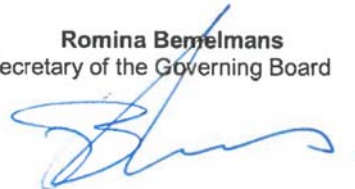
Done at Barcelona, on 2 December 2015

For the Governing Board

Joaquín Sánchez Chair of the Governing Board

A handwritten signature in blue ink, appearing to be 'J. Sánchez', written over a faint horizontal line.

Romina Bernelmans
Secretary of the Governing Board

A handwritten signature in blue ink, appearing to be 'Romina Bernelmans', written over a faint horizontal line.