



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DECISION

**establishing the European Joint Undertaking for ITER and the Development of Fusion
Energy and conferring advantages upon it**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Grounds for and objectives of the proposal

The objective of this proposal is the establishment by Council decision under Article 49 of the Euratom Treaty of a Joint Undertaking, through which Euratom would provide its contribution to the proposed ITER international fusion research project and specific related fusion research activities.

By Decision of 16 November 2000, the Council directed the Commission to conduct negotiations on an international framework allowing the joint preparation for the future establishment of an ITER Legal Entity for ITER Construction and Operation, if and when so decided.

In this connection, the Council adopted Conclusions in November 2003 "*authorising the Commission to put forward Cadarache (France) as the European candidate site for ITER Project. The Council also decided unanimously that the ITER European legal entity will be located in Spain...*"¹

By Council Decision of 26 November 2004², which amended the negotiation directive of 16 November 2000, the realisation of ITER Project in Europe in the framework of the "Broader Approach" to fusion energy was identified as the main feature of the fusion research activities to be carried out under the Euratom Research Framework Programmes.

The parties³ to the negotiations reached consensus in June 2005 to build the ITER Project in Europe. The proposed international agreement to establish the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project (hereafter the "ITER Agreement" and the "ITER Organisation") was initialled on 24 May 2006⁴ and submitted for approval by Council in accordance with Article 101 of the Euratom Treaty.

Under the terms of the ITER Agreement, Euratom will have *inter alia* the following obligations:

- to establish a "Domestic Agency" through which Euratom will provide in-kind and financial contributions, including human resources, to the ITER Organisation;
- to support the preparation of the site for ITER Project, in accordance with the special responsibilities of Euratom as host party.

¹ Conclusions of the 2547th Competitiveness Council 26-27 November 2003 15397/03

² Conclusions of the 2624th Competitiveness Council 25-26 November 2004 14687/04

³ Euratom, the People's Republic of China, Korea, India, Japan, the Russian Federation and the United States

⁴ COM(2006) 240

In addition, Euratom will provide in-kind and financial contribution to Broader Approach activities in Japan, in the first instance according to a bilateral agreement that is concluded for this purpose.

In its Decision of 30 September 2002⁵, the Council adopted the specific programme (Euratom) for the sixth Framework Programme (2002-2006), where it was recognised that *“once a decision is taken to go ahead with the (ITER) Project, [...] organisational changes will be required, in particular to steer jointly the European contribution to ITER Organisation.”*

Given the scale and breadth of the commitments that Euratom must fulfil, in particular the need to procure and provide to the prospective ITER Organisation high technology components to the specification and timescale required for the project and support associated R&D, it is necessary to create an entity with its own legal personality that can operate flexibly and respond rapidly in an industry-like manner.

In its Communication to Council of 28 February 2003⁶, the Commission reported on the status of ITER negotiations including the envisaged structure for the management of the European contribution to the ITER Organisation. Based upon consultation with the relevant stakeholders, a legal entity in the form of a Joint Undertaking based on the provisions of Articles 45-51, Chapter 5 of Title II of the Euratom Treaty, was deemed appropriate.

In its proposals⁷ for the seventh Euratom Framework Programme for nuclear research and training activities (2007 to 2011), and associated Specific Programme⁸ (hereinafter “FP7”), the Commission proposed to establish a legal entity in the form of a Joint Undertaking for which financial provisions were made.

The proposed Joint Undertaking, the “European Joint Undertaking for ITER and the Development of Fusion Energy” is the most effective means for providing the Euratom contribution to the ITER Organisation, the Broader Approach Activities and, in the longer term, to prepare for the construction of demonstration fusion power plants (DEMO) and related facilities including the International Fusion Materials Irradiation Facility (IFMIF).

1.2. General context

In face of the increasing global demand for energy and the economic, political and environmental risks of continued dependence on fossil fuel sources, fusion energy has the potential to make a major contribution to a diverse, sustainable and secure energy supply system in a few decades from now.

There have been intense efforts world-wide to harness the potential of fusion and considerable progress has been made. Europe has come to the forefront, largely due to the integration of national fusion programmes into a single co-ordinated Euratom fusion research programme, including notably, the construction and operation

⁵ OJ L 294, 29.10.2002, p.74

⁶ COM(2003) 215

⁷ COM(2006) 364

⁸ COM(2005) 445

through a Joint Undertaking established under the Euratom Treaty, of the Joint European Torus, JET, the world's leading fusion device.

The long term goal of the European fusion programme is the joint creation of economically viable demonstration reactors. This strategy entails, as its first priority, the construction and operation of ITER ("*the way*") – a major experimental device designed to demonstrate the scientific and technological feasibility of fusion as a large scale source of energy with favourable safety and environmental features.

In view of its scale and the scientific and technical challenges involved, the ITER Project has been pursued over the last seventeen years as an international collaboration. Following a conceptual design phase, the ITER Engineering Design Activities (EDA) were carried out from 1992 to 2001 by an intergovernmental agreement under the auspices of the International Atomic Energy Agency.⁹

At the end of the EDA, and following extensive domestic scientific, technological and economical assessments by the Parties to the agreement¹⁰, the ITER Council concluded that the objectives had been fully met and recommended to the Parties "*to take the necessary steps to realise a Joint Implementation of ITER as the next step in the development of fusion as a source of energy for peaceful purposes.*"¹¹

Since 2001 negotiations have been in progress to develop an international agreement for the joint implementation of ITER Project. The four initial participants in the collaboration - Euratom, Japan, Russian Federation and USA – have been joined now by China, Korea and India - representing over one-half of the world's population.

In connection with the ITER negotiations, the Parties have also considered complementary joint fusion research activities as part of a "Broader Approach" to the rapid realisation of fusion energy. The advantages of such an approach were noted in the Council Conclusions of the 24 September 2004¹² and, by the Council Decision of 26 November 2004¹³, the Commission was authorised to include in the finance and cost sharing arrangements for constructing ITER, "*European participation in international collaborative research activities with a broader approach to the realisation of fusion energy.*" In this context, Euratom is proposing to participate in a number of fusion research projects of mutual interest in the frame of the privileged partnership being forged with Japan and on a timescale compatible with the construction phase of the ITER Project.

With the consensus reached among the Parties in June 2005 to construct ITER in Europe (Cadarache, France), and the forthcoming conclusion of the ITER Agreement, all prospective Parties are obliged to establish "Domestic Agencies", through which to channel the required contributions to the ITER Organisation. At the same time, the Commission has finalised negotiations on an agreement between Japan and Euratom to set up a legal framework for the Broader Approach activities.

⁹ Technical Basis for the ITER-FEAT Outline Design 2001, ITER EDA Documentation Series No 19 (Vienna: IAEA)

¹⁰ EU Domestic Assessment of the ITER-FEAT Final Design Report, May 2001

¹¹ Final Report of the ITER EDA, ITER EDA Documentation Series No. 21, IAEA, Vienna, 2001

¹² Conclusions of the 2605th Competitiveness Council 24 September 2004 12487/04

¹³ Conclusions of the 2624th Competitiveness Council 25-26 November 2004 14687/04

Under the terms of that agreement, the Euratom Domestic Agency for ITER should discharge Euratom's commitments associated with the Broader Approach. To achieve the maximum synergy, it is deemed appropriate that the Euratom Domestic Agency for ITER will also be entrusted with activities in preparation for the construction of DEMO and related facilities including IFMIF.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

In accordance with Article 46 of the Euratom Treaty, the Commission has conducted an extensive inquiry involving all the relevant stakeholders including the CCE-FU¹⁴ and the Associations¹⁵. Taking advantage of the experience gained from the integration of fusion activities in Europe, in particular with JET, a broad debate has been initiated since 2001¹⁶. The CCE-FU in particular has established ad-hoc groups to examine the matter closely and identified the need for a new legal entity with a scope that encompasses ITER, Broader Approach activities and work in preparation for DEMO construction¹⁷.

In presenting the proposals for FP7, the Commission carried out an extensive impact assessment based upon inputs from stakeholders, internal and external evaluation and other studies, and contributions from recognised European evaluation and impact assessment experts¹⁸. In this context, the importance of fusion research and ITER were considered, and it was pointed out that the establishment of a fully integrated European fusion programme is a model for the European Research Area (ERA).

The European fusion programme generates approximately 2,000 scientific publications per year, supports advanced training of researchers through 4-5 summer schools and workshops each year, and drives innovation, technology transfer and spin-offs, and the development of advanced technologies through a large number of industrial contacts.¹⁹ In addition, the EU's leadership in this field strengthens industrial competitiveness in related technologies (e.g. superconducting magnets).

According to the FP7 impact assessment, investment in research, including fusion, at European level builds a critical mass of resources, shares knowledge and facilities across many countries, stimulates dissemination of results and provides a more efficient mechanism for research. It also achieves a significant impact, especially in the long-term, mainly due to economic multiplier effects. The construction and operation of ITER in Europe will, in addition, have substantial direct industrial and economic benefits that will raise European competitiveness and strengthen industry.

The results of its inquiry have led the Commission to a favourable opinion on the proposal to establish a Joint Undertaking for the purpose of discharging Euratom obligations to the ITER Organisation and Broader Approach activities and to

¹⁴ Consultative Committee for the Euratom Specific Research and Training Programme in the Field of Nuclear Energy (Fusion) (CCE-FU)

¹⁵ "Associations" refer to the legal agreements (Contracts of Association) between Euratom and laboratories in Member or Associated States for the execution of part of the fusion programme

¹⁶ COM(2003) 215

¹⁷ Report to the CCE-FU from the Ad-hoc Working Group on ELE/EFEDO EUR (05) CCE-FU 30/3.1

¹⁸ SEC(2005) 430 and also <http://www.cordis.lu/fp7/debate.htm>

¹⁹ EUR 20229, "Fusion energy – Moving forward", 2003

preparing for the construction of DEMO, in accordance with the long term goal of the European fusion research programme and boosting industrial competitiveness.

3. LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the Proposed Action

The ITER Agreement obliges Euratom to establish a Domestic Agency to provide its contribution to the ITER Organisation. Aside from management of this contribution by the Commission itself, which would not be appropriate for a project of this technical complexity and scale, the only legal instrument foreseen under the Euratom Treaty is the establishment of a Joint Undertaking based on the provisions of Articles 45-51, Chapter 5 of Title II of the Euratom Treaty. The JET Joint Undertaking, established under the same provisions of the Treaty, has demonstrated the effectiveness of this legal instrument. Building upon this experience, the Commission therefore proposes to establish a Joint Undertaking in order to discharge Euratom obligations to the ITER Organisation and Broader Approach activities and to prepare for the construction of DEMO. In addition, the Commission proposes to confer on the Joint Undertaking the advantages provided for in Annex III to the Treaty.

- Legal Basis

The Euratom Treaty provides in Article 45 of Chapter 5 of Title II that "*undertakings which are of fundamental importance to the development to the nuclear industry in the Community may be established as Joint Undertakings*". Since the Joint Undertaking will play a pivotal role in maintaining Europe's strategic position in fusion research, there are clear grounds for having recourse to this chapter. The JET Project has given the Community extensive experience of setting up, operating and winding down such a Joint Undertaking. The Commission has undertaken an inquiry and has a favourable opinion on this proposed course of action.

4. BUDGETARY IMPLICATION

The legislative financial statement attached to this Decision sets out the budgetary implications and the human and administrative resources, and also provides indicative figures for the period 2007-2016 and thereafter. The contributions of members are laid down in Article 12 of the statutes and Annex II thereto. The latter provides a general framework, which will be set out in more detail in the financial regulation of the Joint Undertaking.

5. PREPARATORY MEASURES

In addition to Article 51 of the Euratom Treaty, and prior to the adoption of the statutes by the Council, the Commission shall apply preparatory measures to ensure that the Joint Undertaking can commence its activities in a timely fashion and thereby honour both its political and legal commitments to the ITER Agreement. In particular, these measures shall include:

- Initiating the recruitment procedures for Staff, subject to the setting up of the organisation and the budgetary availability, to enable their appointment as soon as possible after the formal establishment of the Joint Undertaking;
- Carry out all necessary measures to prepare draft documents including e.g. the financial regulation, rules of procedure, project plan, the rules on intellectual property rights, etc.;
- Take all necessary measures to ensure that the Joint Undertaking is operational from day one e.g. preparation of procurement actions, developing logistical systems, etc.

6. DETAILED EXPLANATION OF THE PROPOSAL

In accordance with the November 2003 Council Conclusions and subsequent decisions by the Spanish authorities, Article 1 of the Statutes defines the name of the Joint Undertaking and its seat in Barcelona, Spain. The Members of the Joint Undertaking aside from Euratom will be Member States of the European Union and Associated third Countries that have concluded co-operation agreements with Euratom in the field of fusion and having expressed their wish to become Members of the Joint Undertaking.

The objectives and activities of the Joint Undertaking are set out in Articles 2 and 3 respectively of the statutes and are in accordance with the enquiry undertaken by the Commission. The fulfilment of the objectives related to the role of the Joint Undertaking as the Euratom Domestic Agency for ITER has the highest priority. The programme of activities in preparation for DEMO is expected to be built up in a progressive way.

Towards the end of the ITER construction phase (8-10 years time), an evaluation reviewing the progress made by the Joint Undertaking towards its objectives shall be carried out. Depending on the outcome of this evaluation, a modification of its objectives and activities may be proposed in accordance with Article 21 of the statutes.

Article 4 of the statutes confirms the legal personality of the Joint Undertaking in accordance with Article 49 of the Treaty. This is essential for the Joint Undertaking to be able to enter into contracts and perform the various tasks that are entrusted to it in an efficient and industry-like manner.

The bodies of the Joint Undertaking are set out in Article 5 of the statutes as the Governing Board and the Director, the former assisted by the Executive Committee. Each Member is represented in the Governing Board by two members to allow the inclusion of scientific and technical expertise. The Board's activities range from the appointment of the Director through to approval of the work programmes and associated budgets.

The distribution of voting rights of Board Members are set out in Annex I to the Statutes and are chosen on the basis of the system used for EFDA²⁰. The voting rights for new Members would be decided by the Board taking into account co-operation agreements with Euratom. In this way, it should not be necessary to revise these statutes each time that new Members join as was the case for JET.

The members of the Executive Committee are appointed collectively by the Governing Board from among persons of recognised standing (Article 7). The Executive Committee will need to meet frequently and its main task will be the approval of contracts. To enable it to work efficiently, the number of Executive Committee members will be 13 with at least half of the members replaced every two years due to the sensitivity of their tasks.

Due to the legal obligations of Euratom discharged to the Joint Undertaking as well as the volume and proportion of Community financing involved, for majority decisions of both the Governing Board and Executive Committee to be valid they shall include the votes of Euratom (Articles 6 and 7). The Governing Board will take appropriate measures and define rules that would adequately manage potential conflicts of interest. These measures shall also be applied by the Executive Committee and the Scientific Programme Board(s).

The Director, described in Article 8 of the Statutes, is the chief executive officer and legal representative with day-to-day responsibility for the Joint Undertaking. He/she shall sign all contracts on behalf of the Joint Undertaking and establish employment contracts with the staff. The Director has a wide range of duties and responsibilities.

To provide advice on the work programmes described in Article 11 and ensure scientific and technical complementarity with other activities undertaken in the Euratom fusion programme (e.g. EDFA and the Associations), Article 9 allows for Scientific Programme Board(s) with members appointed by the Board.

All staff will be employed according to the rules and regulations applicable to officials and other servants of the European Communities (Article 10). This is different from the situation at JET where two categories of staff led to claims being brought against the Commission. In addition, these arrangements will enable the Joint Undertaking to attract the required high level scientific, technical and administrative personnel.

Basic principles on resources are set out in Article 12 of the Statutes. The contributions in cash and in-kind by Members to the resources of the Joint Undertaking are foreseen. Despite the fact that Euratom is contributing the majority of the resources, a modest membership contribution will be payable by the other Members. The sum of these annual membership contributions will not exceed 10% of the administrative costs of the Joint Undertaking and calculated on the basis of the proportionate participation of each Member in the Euratom fusion programme as described in Annex II.

²⁰ European Fusion Development Agreement (Contract ERB-5035-CT-99-0001 as last amended by FU36-CT-2004-00123)

Due to the specialised nature of its activities, a distinct financial regulation and associated implementing arrangements are needed for the Joint Undertaking to operate in an industry-like manner whilst, at the same time, adopting measures and controls that ensure sound financial management and protect the Community's interests. Provisions will be made for contracts awarded on the basis of calls for tender and cost-sharing contracts. The financial regulation will be adopted by the Board, in agreement with the Commission, following the principles in Annex III to the statutes.

Audit and supervisory mechanisms are described in Article 15 and Annex III including: the establishment of an internal audit unit that reports to the Director, the role of the Court of Auditors for the examination of the accounts, and the measures needed to facilitate internal enquiries by OLAF.

The possibility of new Members joining the Undertaking as outlined in Article 16 of the Statutes is either due to their accession to Euratom, or as Associated third Countries that have concluded a co-operation agreement with Euratom in the field of controlled nuclear fusion and expressed their wish to become Members of the Joint Undertaking.

Article 17 defines the duration of the Joint Undertaking as 35 years which is consistent with the time scale associated with ITER construction and operation as well as the "fast track" approach to fusion which aims to achieve large-scale electricity production within a reasonable timescale. This period may be extended according to the procedure defined in Article 21 of the statutes.

Spain, as host state for the Joint Undertaking, will provide site and support in addition to the advantages set out in Annex III to the Treaty and will be subject to a separate agreement between the Joint Undertaking and Spain (Article 18). The remaining Articles of the Statutes make provision for the winding up of the Joint Undertaking, ownership and the assignment of rights, amendments to the statutes and the arrangements for the settlement of disputes.

Proposal for a
COUNCIL DECISION

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 Articles 45 to 49 thereof,

Having regard to the proposal from the Commission²¹,

Whereas:

- (1) The Community, through strong, continuous and coordinated Community support from the European Atomic Energy Community (“Euratom”) research and training programmes, together with the development of knowledge and human capital in the national fusion laboratories, has created a single and fully integrated fusion research programme that has taken a leading international role in the development of fusion as a potentially limitless, safe, sustainable, environmentally responsible and economically competitive source of energy.
- (2) The establishment of the Joint European Torus (JET) fusion research project in 1978²², which has met or exceeded all of its design objectives including demonstrating the release of significant amounts of fusion energy in a controlled manner and going on to hold world records for both fusion power and energy, has demonstrated the added value of pooling resources and expertise at Community level in the form of a Joint Undertaking.
- (3) The Community has played a key role in the development of a next step international fusion project, ITER, starting in 1988 with Conceptual Design Activities²³, continuing in 1992 with Engineering Design Activities²⁴ which were extended by three years in 1998²⁵ and followed by a second agreement in 1994²⁶ that produced in 2001 a detailed, complete and fully integrated engineering design²⁷ of a research facility aimed at demonstrating the feasibility of fusion as an energy source from which the

²¹ OJ C , , p. .

²² OJ L 151, 7.6.1978, p. 10

²³ OJ L 102, 24.4.1988, p. 31

²⁴ OJ L 244, 26.8.1992

²⁵ OJ L 335, 19.12.1998, p. 62

²⁶ OJ L 114, 05.5.1994, p. 25

²⁷ Technical Basis for the ITER-FEAT Outline Design 2001, ITER EDA Documentation Series No 19 (Vienna: IAEA)

Community could derive significant benefit, in particular, in the context of ensuring the security and diversity of its long-term energy supply.

- (4) The seven parties to the ITER negotiations (Euratom, People's Republic of China, India, Japan, Korea, Russia and the United States), representing over one half of the world's population, have concluded the Agreement on the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project²⁸ (hereinafter the "ITER Agreement") which establishes the ITER International Fusion Energy Organisation (hereinafter the "ITER Organisation") with headquarters in St. Paul-lez-Durance (France).
- (5) The ITER Agreement requires all parties to provide contributions to the ITER Organisation through appropriate legal entities referred to as "Domestic Agencies". In order to enable ITER construction to commence without delay and given that Euratom, as host party, will have special responsibilities including the largest share of the contributions and the preparation of the site, the Domestic Agency of Euratom should be established as soon as possible.
- (6) Euratom and Japan have concluded a bilateral Agreement for the Joint Implementation of the Broader Approach Activities²⁹ (hereinafter "the Broader Approach Agreement with Japan") setting out complementary joint fusion research activities as part of a "Broader Approach" to the rapid realisation of fusion energy agreed during negotiations on the ITER Agreement. The Broader Approach Agreement with Japan foresees that such Broader Approach Activities should be carried out by Euratom through the Domestic Agency of Euratom as the Implementing Agency.
- (7) To achieve maximum synergy and economies of scale, the Domestic Agency of Euratom, in the context of the "fast track" approach to fusion examined by a group of independent experts at the request of the Research Ministers during the Belgian Presidency³⁰, should also implement a long-term programme of activities to prepare for the construction of demonstration fusion reactors and related facilities to reinforce European industrial competitiveness in this respect.
- (8) In its Conclusions of 26-27 November 2003, the Council, by unanimous decision, authorised the Commission to put forward France as the ITER host state and Cadarache as the ITER site and decided that the Domestic Agency for Euratom should be located in Spain³¹.
- (9) The fundamental importance of the ITER Project and Broader Approach Activities for harnessing fusion as a potentially limitless, safe, sustainable, environmentally responsible and economically competitive source of energy makes it necessary establish the Domestic Agency of Euratom in the form of a Joint Undertaking as provided for in Chapter 5 of the Euratom Treaty.
- (10) The Joint Undertaking, which should be responsible for public research activities of European and international interest, and discharge commitments pursuant to

²⁸ O J C , , p. .

²⁹ O J C , , p. .

³⁰ Conclusions of the Fusion Fast Track Experts Meeting held on 27 November 2001

³¹ Conclusions of the 2547th Competitiveness Council 26-27 November 2003 15397/03

international agreements, should be considered as an international organisation within the meaning of the second indent of Article 15(10) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes⁽³²⁾, the second indent of Article 23(1) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products⁽³³⁾, Article 22 of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors³⁴, and Article 15 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts⁽³⁵⁾.

- (11) The Joint Undertaking should have, subject to prior concertation with the Commission, a distinct financial regulation based on the principles of the framework financial regulation³⁶ (hereinafter “the Framework Financial Regulation”) taking into account its specific operating needs arising, in particular, from its international obligations.
- (12) In order to strengthen international research cooperation, the Joint Undertaking should be open to the participation of countries that have concluded co-operation agreements with Euratom in the field of nuclear fusion that associate their respective programmes with the Euratom programmes.
- (13) The proposal for the Council Decision for the seventh framework programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011)³⁷, and the specific Programme implementing that framework programme³⁸ (hereinafter “FP7”) puts ITER at the heart of the European strategy for fusion and makes provision for the Euratom contribution, through the Joint Undertaking to the ITER Organisation, Broader Approach Activities and other related activities in view of preparing for demonstration fusion reactors.
- (14) The need to ensure stable employment conditions and equal treatment of staff, taking into account the experience gained from the JET Joint Undertaking, in order to attract specialised scientific and technical staff of the highest calibre, requires the application of the Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities, laid down by Regulation (EEC, Euratom, ECSC) No 259/68⁽³⁹⁾ to all the staff recruited by the Joint Undertaking.

³² OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2001/115/EC (OJ L 15, 17.1.2002, p. 24)

³³ OJ L 76, 23.3.1992, p. 1. Directive as last amended by Directive 2000/47/EC (OJ L 193, 29.7.2000, p. 73)

³⁴ OJ L 134, 30.4.2004, p. 1

³⁵ OJ L 134, 30.4.2004, p. 114

³⁶ OJ L 357 31.12.2002, p. 72

³⁷ COM(2006) 364

³⁸ COM(2005) 445

³⁹ OJ L 56, 4.3.1968, p. 1. as amended by Regulation (CE, Euratom) No 723/2004 (OJ L 124, 27.4.2004)

- (15) Taking into account that the Joint Undertaking is not designed to fulfill an economic purpose and is responsible for managing the Euratom participation in an international research project of public interest, it is necessary for the performance of its tasks that the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965⁴⁰ should apply to the Joint Undertaking, its Director and staff.
- (16) In view of the particular nature of the activities of the Joint Undertaking and its importance for the development of fusion research and in order to promote a sound and economic management of the public funding to be provided to the Joint Undertaking, all the advantages provided for in Annex III to the Treaty should be conferred on the Joint Undertaking.
- (17) Taking into account the rights and obligations of the Community under Title II, Chapter 2 of the Treaty concerning the dissemination of information, the Joint Undertaking should make appropriate arrangements in that regard with the Commission.
- (18) A host agreement should be concluded between the Joint Undertaking and Spain concerning office accommodation, privileges and immunities and other support to be provided by Spain to the Joint Undertaking.
- (19) This Decision takes into account the outcome of the enquiry conducted by the Commission and, in particular, the positive opinion of the Consultative Committee for the Euratom Specific Research and Training Programme in the Field of Nuclear Energy (Fusion) on the proposals,

HAS ADOPTED THIS DECISION:

Article 1

Establishment of a Joint Undertaking

1. The European Joint Undertaking for ITER and the Development of Fusion Energy (*Fusion for Energy*) (hereinafter “the Joint Undertaking”) is hereby established for a period of 35 years.
2. The tasks of the Joint Undertaking shall be as follows:
 - (a) to provide the contribution of the European Atomic Energy Community (“Euratom”) to the ITER International Fusion Energy Organisation;
 - (b) to provide the contribution of Euratom to Broader Approach Activities with Japan for the rapid realisation of fusion energy;
 - (c) to implement a programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities including the International Fusion Materials Irradiation Facility.

⁴⁰ OJ L 152, 13.7.1967,p.13, as amended by the Treaty of Amsterdam and the Treaty of Nice

3. The Joint Undertaking shall have its seat at Barcelona in Spain.
4. The Joint Undertaking shall be considered as an international organisation within the meaning of the second indent of Article 15(10) of Directive 77/388/EEC, the second indent of Article 23(1) of Directive 92/12/EEC, Article 22 of Directive 2004/17/EC and Article 15 of Directive 2004/18/EC.

Article 2

Members

The Joint Undertaking shall have the following Members:

- (a) Euratom;
- (b) Member States of Euratom;
- (c) third countries which have concluded a co-operation agreement with Euratom in the field of controlled nuclear fusion that associates their respective research programmes with the Euratom programmes and have expressed their wish to become Members of the Joint Undertaking.

Article 3

Statutes

The Statutes of the Joint Undertaking, as set out in the Annex, are hereby adopted.

Article 4

Financing

1. The resources required for the Joint Undertaking to carry out its tasks shall be determined as follows:
 - (a) as regards the tasks referred to in Article 1(2)(a), in accordance with the Agreement on the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project;
 - (b) as regards the tasks referred to in Article 1(2)(b), in accordance with the bilateral Agreement for the Joint Implementation of the Broader Approach Activities;
 - (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.

2. The resources of the Joint Undertaking shall consist of a contribution from Euratom, contributions from the ITER host state, the annual membership contributions and voluntary contributions from Members of the Joint Undertaking other than Euratom, and additional resources.
3. The indicative total resources deemed necessary for the Joint Undertaking in accordance with paragraph 1 shall be EUR 9,653 million⁴¹. This is detailed as follows (in EUR million):

2007 - 2016		2017 - 2041		2007 - 2041 Total
	of which 2007-2011		Constant values	
4,127	1,717	5,526	3,544	9,653

4. The indicative total contribution from Euratom to the resources referred to in paragraph 3 shall be EUR 7,649 million, of which a maximum of 15 % shall be for administrative expenditure. This is detailed as follows (in EUR million):

2007 - 2016		2017 - 2041		2007 - 2041 Total
	of which FP7 (2007- 2011)		Constant values	
3,147	1,290	4,502	2,887	7,649

Article 5

Financial Regulation

1. The Joint Undertaking shall have a distinct financial regulation based on the principles of the Framework Financial Regulation. It may depart from the Framework Financial Regulation where the specific operating needs of the Joint Undertaking so require and subject to prior concertation with the Commission.
2. The Joint Undertaking shall establish its own internal audit service.
3. Discharge for the implementation of the Community's contribution to the budget of the Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council, under a distinct procedure to the general discharge.
4. The accounts of the Joint Undertaking shall be consolidated with the Commission's accounts.

⁴¹ All figures shown are expressed in current values unless otherwise stated and subject to the adoption of the corresponding budgets for Community research and training programmes pursuant to Article 7 of the Treaty

Article 6

Staff

The Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Communities, as well as the rules adopted jointly by the institutions of the European Community for the purposes of the application of those Staff Regulations, shall apply to the staff of the Joint Undertaking.

Article 7

Privileges and Immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Joint Undertaking, its Director and Staff.

Article 8

Advantages

1. The Member States shall confer all the advantages provided for in Annex III to the Treaty on the Joint Undertaking within the scope of its official activities, for as long as the Joint Undertaking exists.
2. The Member States shall also confer on the Joint Undertaking exemptions from all indirect taxes for which it might be liable.

Article 9

Liability

1. The contractual liability of the Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the contract in question.
2. The Court of Justice of the European Communities shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by the Joint Undertaking.
3. In the case of non-contractual liability, the Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its servants in the performance of their duties.
4. The Court of Justice of the European Communities shall have jurisdiction in disputes relating to compensation for such damage.

5. Any payment by the Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the Joint Undertaking and shall be covered by the resources of the Joint Undertaking.

Article 10

Dissemination of Information

The Joint Undertaking shall agree with the Commission appropriate provisions which will allow the Community to exercise its rights and obligations under Title II, Chapter 2 of the Treaty.

Article 11

Host agreement

A host agreement shall be concluded between the Joint Undertaking and Spain within three months following the date of entry into force of this Decision.

Article 12

Entry into force

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

This Decision is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX TO THE PROPOSAL FOR A COUNCIL DECISION
STATUTES OF THE EUROPEAN JOINT UNDERTAKING FOR ITER AND THE
DEVELOPMENT OF FUSION ENERGY (*FUSION FOR ENERGY*)

Article 1

Name, Seat, Members

1. The name of the Joint Undertaking shall be “The European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy)” (hereinafter referred to as “the Joint Undertaking”).
2. The seat of the Joint Undertaking shall be at Barcelona in Spain.
3. The Joint Undertaking shall have the following Members:
 - (a) the European Atomic Energy Community (hereinafter “Euratom”);
 - (b) Member States of Euratom;
 - (c) third countries which have concluded a co-operation agreement with Euratom in the field of controlled nuclear fusion that associates their respective research programmes with the Euratom programmes and which have expressed their wish to become Members of the Joint Undertaking (hereinafter “Associated third Countries”).

Article 2

Objectives

1. The objectives of the Joint Undertaking shall be:
 - (a) to provide the contribution of Euratom to the ITER International Fusion Energy Organisation (“the ITER Organisation”), in accordance with the Agreement on the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project of ... (“the ITER Agreement”);
 - (b) to provide the contribution of Euratom to broader approach activities with Japan for the rapid realisation of fusion energy (“Broader Approach Activities”), in accordance with the bilateral Agreement for the Joint Implementation of Broader Approach Activities (“the Broader Approach Agreement with Japan”);
 - (c) to implement 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).

Article 3

Activities

1. As the Euratom Domestic Agency for ITER, the Joint Undertaking shall discharge the obligations of Euratom to the ITER Organisation as defined in, and for the duration of, the ITER Agreement. In particular, it shall:
 - (a) oversee preparation of the ITER Project site;
 - (b) provide components, equipment, materials and other resources to the ITER Organisation;
 - (c) manage procurement arrangements vis-à-vis the ITER Organisation and in particular associated quality assurance procedures;
 - (d) prepare for and coordinate Euratom's participation in the scientific and technical exploitation of the ITER Project;
 - (e) provide for the implementation of scientific and technological research and development activities in support of Euratom's contribution to the ITER Organisation;
 - (f) provide Euratom's financial contribution to the ITER Organisation;
 - (g) provide arrangements to make human resources available for the ITER Organisation;
 - (h) interface with the ITER Organisation and carry out any other activities in furtherance of the ITER Agreement.

2. As the Implementing Agency in the context of the Broader Approach Agreement with Japan, the Joint Undertaking shall discharge Euratom obligations for the implementation of Broader Approach Activities. In particular, it shall:
 - (a) provide components, equipment, materials and other resources for Broader Approach Activities;
 - (b) prepare for and coordinate Euratom's participation in the implementation of Broader Approach Activities;
 - (c) provide for the implementation of scientific and technological research and development activities;
 - (d) provide the Euratom financial contribution to Broader Approach Activities;
 - (e) provide arrangements to make human resources available for Broader Approach Activities;
 - (f) carry out any other activities necessary for meeting Euratom's obligations in furtherance of the Broader Approach Agreement with Japan.

3. In preparation for the construction of a demonstration fusion reactor and related facilities including the International Fusion Materials Irradiation Facility (IFMIF), the Joint Undertaking shall implement a programme of research, development and design activities other than ITER and Broader Approach Activities.
4. Undertake any other activities in furtherance of the overall objectives set out in Article 2, including activities to raise public awareness of the Joint Undertaking and its mission.

Article 4

Legal Personality

The Joint Undertaking shall have legal personality. In the territory of each of its Members, it shall enjoy the most extensive legal capacity accorded to legal persons under their respective laws. It may, in particular, conclude contracts, obtain licences, acquire or dispose of movable and immovable property, take out loans and be a party to legal proceedings.

Article 5

Bodies

1. The bodies of the Joint Undertaking shall be the Governing Board and the Director.
2. The Governing Board shall be assisted by the Executive Committee in accordance with Article 7.
3. The Governing Board and the Director shall seek advice from the Scientific Programme Board(s) in accordance with Article 9.

Article 6

Governing Board

1. The Governing Board shall be responsible for the supervision of the Joint Undertaking in the pursuit of its objectives set out in Article 2 and ensure close collaboration between the Joint Undertaking and its Members in the implementation of its activities.
2. Each Member of the Joint Undertaking shall be represented in the Governing Board by two members, one of whom shall have scientific/technical expertise in the areas related to the activities of the Joint Undertaking.
3. The Governing Board shall make recommendations and take decisions on any questions, matters or issues within the scope of and in accordance with these Statutes. The Governing Board shall in particular:

- (a) adopt changes in the voting system and rights and determine the voting rights of new Members upon a proposal by Euratom ;
- (b) approve proposals for amendments to these statutes;
- (c) decide all matters referred to it by the Executive Committee;
- (d) appoint the Chairperson and members of the Executive Committee;
- (e) adopt the project plan, work programmes, resource estimates plan, the staff establishment plan and the staff policy plan;
- (f) adopt the annual budget and approve the annual accounts in accordance with the financial regulation;
- (g) exercise the powers referred to in Article 10(3) in respect of the Director;
- (h) approve the basic organisational structure of the Joint Undertaking;
- (i) adopt the financial regulation and its implementing rules of the Joint Undertaking in accordance with Article 13(1);
- (j) adopt the implementing provisions referred to in Article 10(2) and Article 10(4) in respect of the staff;
- (k) adopt implementing rules for making human resources available for the ITER Organisation and for Broader Approach Activities;
- (l) adopt and apply measures and guidelines to combat fraud, irregularities and manage potential conflicts of interest;
- (m) approve the host agreement between the Joint Undertaking and Spain (hereinafter “the Host State”);
- (n) decide on any acquisition, sale and mortgaging of land and other titles to real property, as well as on the giving of any sureties or guarantees, taking out of shares in other undertakings or institutions, and granting or taking of loans;
- (o) approve the conclusion of agreements or arrangements regarding co-operation with third countries and with institutions, undertakings or persons of third countries or with international organisations;
- (p) approve the annual activity reports on the progress of the Joint Undertaking with respect to its work programmes and its resources;
- (q) adopt rules on industrial policy, intellectual property rights and the dissemination of information in agreement with the European Commission (hereinafter “the Commission”);
- (r) establish the Scientific Programme Board(s) and appoint their members;

- (s) exercise such other powers and perform such other functions, including the establishment of subsidiary bodies, as may be necessary for the exercise of its functions in furtherance of its objectives.
- 4. The voting rights of the Members of the Joint Undertaking shall be as set out in Annex I. The votes of each Member shall be indivisible.
- 5. Decisions by the Governing Board in respect of the functions described in paragraph 3(a) and (b) shall require unanimity.

Decisions by the Governing Board in respect of the functions described in paragraph 3(c) to (n) shall require a two-thirds majority of the total votes.

Unless otherwise stated, all other Governing Board decisions shall require a simple majority of the total votes.

For decisions taken by majority voting to be valid, the majority shall include the votes of Euratom.

- 6. The Governing Board shall elect its Chairperson from among its members upon a proposal by Euratom. He shall serve for a term of two years and may be re-elected once.
- 7. The Governing Board shall meet when convened by the Chairperson, at least two times per year. The Governing Board may also be convened at the request of a simple majority of its members, or at the request of the Director or Euratom. The meetings shall normally take place at the seat of the Joint Undertaking.
- 8. Unless otherwise decided in particular cases, the Director of the Joint Undertaking and the Chairperson of the Executive Committee shall participate in the meetings of the Governing Board.
- 9. The Governing Board shall adopt its rules of procedure and shall approve the rules of procedure of the Executive Committee by two-thirds majority of the total votes.

Article 7

Executive Committee

- 1. The Executive Committee shall assist the Governing Board in the preparation of its decisions and shall undertake any other tasks which the Governing Board may delegate to it.
- 2. The Executive Committee shall be composed of thirteen members appointed by the Governing Board from among persons of recognized standing and professional experience in scientific, technical and financial matters relevant to the functions set out in this Article. One Member of the Executive Committee shall be Euratom.
- 3. The Executive Committee shall in particular:

- (a) approve the award of contracts in accordance with the financial regulation;
 - (b) comment on and make recommendations to the Governing Board on the proposal for the project plan, work programmes, resource estimates plan, annual budget and accounts drawn up by the Director;
 - (c) submit to the Governing Board, in duly justified cases, decisions on the awarding of contracts or any other decisions entrusted to it.
4. Each Executive Committee member shall have one vote.
 5. Unless otherwise stated, decisions by the Executive Committee shall require a majority of nine votes in favour, including the vote of Euratom.
 6. The term of office for members of the Executive Committee shall be two years renewable once. Every two years at least one-half of the members shall be replaced.
 7. On expiry of their term of office members shall remain in office until their appointment is renewed or they are replaced. If a member resigns, he shall remain in office until he is replaced.
 8. The Chairperson of the Executive Committee shall be appointed by the Governing Board for a period of two years, renewable once.
 9. The Executive Committee shall meet when convened by the Chairperson, at least six times per year. The Executive Committee may also be convened at the request of at least three members, or at the request of the Director or Euratom. The meetings shall normally take place at the seat of the Joint Undertaking.
 10. The Chairperson of the Executive Committee shall participate in the meetings of the Governing Board, unless the Governing Board decides otherwise.
 11. Subject to the prior approval of the Governing Board, the Executive Committee shall adopt its rules of procedure.

Article 8

The Director

1. The Director shall be the chief executive officer responsible for the day-to-day management of the Joint Undertaking and shall be its legal representative.
2. The Director shall be appointed by the Governing Board upon a proposal by Euratom for a period of five years. After an evaluation of the Director by Euratom, and upon its proposal, the Governing Board may extend the term of office once for a further period of not more than five years.
3. The Director shall be subject to the rules and regulations applicable to officials and other servants of the European Communities save as otherwise provided in these Statutes.

4. The Director shall implement the work programmes and direct the execution of the activities set out in Article 3. He shall supply the Governing Board, the Executive Committee, the Scientific Programme Boards and any subsidiary bodies with all information necessary for the performance of their functions.

In particular, the Director shall:

- (a) organise, direct and supervise the Staff and exercise in respect of the Staff the powers referred to in Article 10(3);
- (b) define the basic organisational structure of the Joint Undertaking and submit it to the Governing Board for approval;
- (c) draw up and regularly update the project plan, work programmes of the Joint Undertaking and the staff policy plan;
- (d) draw up, in accordance with the ITER Agreement and with the Broader Approach Agreement with Japan, implementing rules for making human resources available for the ITER Organisation and for Broader Approach Activities;
- (e) draw up, in accordance with the financial regulation of the Joint Undertaking, the resource estimates plan and annual draft budget including the staff establishment plan of the Joint Undertaking;
- (f) implement the budget, keep the inventory and draw up the annual accounts in accordance with the financial regulation of the Joint Undertaking;
- (g) ensure the application of sound financial management and internal controls;
- (h) draw up the rules on intellectual property rights and industrial policy, and on the dissemination of information;
- (i) draw up the annual activity report on the progress of the implementation of the activities of the Joint Undertaking set out in the work programmes and resource estimates plan;
- (j) draw up such other reports as may be requested by the Governing Board or Executive Committee;
- (k) assist the Governing Board, the Executive Committee and any subsidiary bodies by providing their secretariat;
- (l) participate in the meetings of the Governing Board, unless the Governing Board decides otherwise and participate in the meetings of the Executive Committee;
- (m) ensure that scientific and technical expertise is made available to the Joint Undertaking for the development of its activities;
- (n) carry out other activities and, as may be necessary, make other proposals to the Governing Board in furtherance of the objectives of the Joint Undertaking.

Article 9

Scientific Programme Board(s)

1. The Governing Board shall appoint the members of Scientific Programme Board(s). The chairperson of the Programme Board(s) shall be elected from among its members.
2. The Scientific Programme Board(s) shall advise the Governing Board and the Director, as necessary, on the adoption and implementation of the project plan and work programmes.

Article 10

Staff

1. The staff of the Joint Undertaking shall assist the Director in the performance of his duties and shall be normally nationals of the Members of the Joint Undertaking
2. The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities, laid down by Regulation (EEC, Euratom, ECSC) No 259/68⁴² (hereinafter “the Staff regulations”) and the rules adopted jointly by the institutions of the European Community for the purposes of the application of those Staff Regulations shall apply to the staff of the Joint Undertaking.

The Governing Board, in agreement with the Commission, shall adopt the necessary implementing provisions, in accordance with the arrangements provided for in Article 110 of the Staff Regulations.

3. The Joint Undertaking shall exercise, with regard to its staff, the powers which are devolved on the appointing authority.
4. The Governing Board may adopt provisions to allow national experts from Members of the Joint Undertaking to be seconded to the Joint Undertaking.

Article 11

Work Programmes and Resource Estimates Plan

The Director shall prepare each year for submission to the Governing Board the project plan, the resource estimate plan and the detailed annual work programmes and budget. One work programme shall be prepared for each of the three groups of activities of the Joint Undertaking as set out in Article 3.

⁴² OJ L 56, 4.3.1968, p. 1. as amended by Regulation (CE, Euratom) no. 723/2004 of 22 March 2004 (OJ L 124, 27.4.2004) and as last amended by Corrigendum (OJ L 051, 24/02/2005 p. 0028)

Article 12

Resources

1. The resources of the Joint Undertaking shall consist of a contribution from Euratom, annual membership contributions and voluntary contributions from the other Members, contributions from the ITER host state and from additional resources:
 - (a) the Euratom contribution shall be made available through the Community research and training programmes adopted pursuant to Article 7 of the Treaty;
 - (b) annual membership contributions shall take the form of financial contributions and shall be made available in accordance with Annex II;
 - (c) voluntary contributions may be made in cash or in-kind and shall not count towards annual membership contributions.
 - (d) contributions from the ITER host state;
 - (e) additional resources may be received under terms approved by the Governing Board.
2. The resources of the Joint Undertaking shall be solely used in furtherance of its objectives as defined in Article 2. The value of contributions in-kind shall be determined by the Joint Undertaking. Without prejudice to Article 19, no payment by way of division of any excess of resources over expenditure shall be made to the Members of the Joint Undertaking.

Article 13

Financial regulation

1. The financial regulation and its implementing rules shall be adopted by the Governing Board.
2. The financial regulation lays down the rules for the establishment and implementation of the budget of the Joint Undertaking.
3. The financial regulation shall be in accordance with the general principles set out in Annex III.

Article 14

Annual activity report

The annual activity report shall record the implementation of the work programmes by the Joint Undertaking. It shall in particular outline the activities conducted by the Joint Undertaking and evaluate the results with respect to the objectives and the timetable set, the

risks associated with the activities carried out, the use of resources and the general operation of the Joint Undertaking. The annual activity report shall be prepared by the Director, approved by the Governing Board and sent to the Members, the Commission, the European Parliament and the Council of the European Union (hereinafter “the Council”).

Article 15

Annual Accounts and Supervision

1. Within two months after the end of each financial year the provisional accounts shall be submitted to the Commission and the Court of Auditors of the European Communities (hereinafter “the Court of Auditors”).

Within six months after the end of each financial year, the Director shall submit the final accounts to the Commission, the Council, the European Parliament and the Court of Auditors.

The European Parliament, upon a recommendation of the Council, shall, before 30 April of year $n+2$, give a discharge to the Director in respect of the implementation of the Community’s contribution to the budget of the Joint Undertaking for year n .

2. The European Anti-Fraud Office (OLAF) set up by Commission Decision 1999/352/EC, ECSC, Euratom⁽⁴³⁾ shall enjoy the same powers in respect of the Joint Undertaking and its staff as it enjoys in respect of Commission departments. As soon as the Joint Undertaking is established, it shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by OLAF⁽⁴⁴⁾. The Governing Board shall approve this accession and adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.
3. All decisions adopted and contracts concluded by the Joint Undertaking, shall provide explicitly that OLAF and the Court of Auditors may carry out on-the-spot inspections of the documents of all contractors and sub-contractors which have received Community funds, including at the premises of the final beneficiaries.

Article 16

Accession

1. Upon accession to Euratom, any new Member State of the European Union shall become a Member of the Joint Undertaking.
2. Any third country which concludes a co-operation agreement with Euratom in the field of controlled nuclear fusion that associates its respective research programmes

⁴³ OJ L 136, 31.05.1999, p. 1

⁴⁴ OJ L 136, 31.5.1999, p. 15

with the Euratom programmes and expresses its wish to become a Member of the Joint Undertaking shall become a Member.

Article 17

Duration

The Joint Undertaking shall be established for a period of 35 years.

Article 18

Support from the Host State

A host agreement shall be concluded between the Joint Undertaking and the Host State concerning, in particular, the site and support to be provided.

Article 19

Winding up

1. At the end of the period provided for in Article 17, or following a decision by the Council, the Joint Undertaking shall be wound up.
2. For the purpose of conducting the proceedings in winding up the Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the instructions issued by the Governing Board.
3. When the Joint Undertaking is being wound up, it shall return to the Host State any physical support item made available by the Host State in accordance with the host agreement provided for in Article 18.
4. When any physical support item has been dealt with as provided in Paragraph 3, any further assets shall be used to cover the liabilities of the Joint Undertaking and the costs relating to its winding up. Any surplus or deficit shall be distributed among or met by the Members existing at the time of the winding up in proportion to their actual total contributions to the Joint Undertaking.

Article 20

Ownership and assignment of rights

1. The Joint Undertaking shall own all resources, tangible and intangible and financial assets created by it or acquired by it unless otherwise agreed between the Commission and the Joint Undertaking.

2. Members shall offer free of charge to the Joint Undertaking any title, rights and obligations arising under contracts concluded and orders placed in relation to the activities of the Joint Undertaking prior to its establishment.
3. The Joint Undertaking may take over any contract and order referred to in paragraph 2.

Article 21

Amendments

1. Without prejudice to Article 6(3)(a) any Member of the Joint Undertaking may make a proposal to the Governing Board for the amendment of these Statutes.
2. Upon the approval of the Governing Board the proposal shall be submitted to the Commission.
3. The Commission may make a proposal to the Council for the approval of such amendments in accordance with Article 50 of the Euratom Treaty.

Article 22

Settlement of disputes

1. Without prejudice to Article 154 of the Treaty, any dispute either between Members of the Joint Undertaking or between one or more Members and the Joint Undertaking concerning the interpretation or application of these Statutes, which is not settled by the good offices of the Governing Board, may, at the request of any party to the dispute, be submitted to an arbitration tribunal.
2. The arbitration tribunal shall be established in each individual case. The tribunal shall be composed of three members nominated jointly by the parties to the dispute. The members of the arbitration tribunal shall elect the chairman from amongst themselves.
3. If the parties in the dispute fail to nominate the members of the arbitration tribunal within two months of the request for submission of a dispute to the arbitration tribunal, or if within one month of the nomination of the members these members do not elect a chairman, such member or members or the chairman shall be nominated by the President of the Court of Justice of the European Communities at the request of one of the parties to the dispute.
4. The arbitration tribunal shall reach its decision by a majority of votes. Such decision shall be binding and final.

**ANNEX I TO THE STATUTES OF THE JOINT UNDERTAKING
GOVERNING BOARD VOTING RIGHTS**

The voting rights of the Members of the Governing Board shall be distributed as follows:

Euratom	5
Austria	2
Belgium	2
Bulgaria	1
Cyprus	1
Czech Republic	2
Denmark	2
Estonia	1
Finland	2
France	5
Greece	2
Germany	5
Hungary	2
Ireland	2
Italy	5
Latvia	2
Lithuania	1
Luxembourg	1
Malta	1
Poland	3
Portugal	2
Romania	2
Slovakia	2
Slovenia	2

Sweden	2
Switzerland	2
Spain	3
The Netherlands	2
United Kingdom	5

ANNEX II TO THE STATUTES OF THE JOINT UNDERTAKING
ANNUAL MEMBERSHIP CONTRIBUTIONS

1. Members other than Euratom shall make annual membership contributions to the Joint Undertaking.
2. The total amount of annual membership contributions for year N shall be calculated on the basis of the annual resources required for the administration of the Joint Undertaking in that year, as adopted by the Governing Board.
3. The total amount of annual membership contributions shall not exceed 10% of the annual resources required for the administration of the Joint Undertaking, as set out in point 2.
4. The annual membership contribution of each Member, unless otherwise decided by the Governing Board by unanimity, shall be composed of:
 - (a) a minimum contribution of 0.1% of the total amount of annual membership contributions set out in point 2;
 - (b) an additional contribution calculated in proportion to the Euratom financial participation (expressed in Euro) in the Member's expenditure in the framework of the Community Fusion research programme in the year N-2.

**ANNEX III TO THE STATUTES OF THE JOINT UNDERTAKING
FINANCIAL REGULATION: GENERAL PRINCIPLES**

1. The financial regulation shall follow the budgetary principles of:
 - (a) unity and budget accuracy;
 - (b) annuality;
 - (c) equilibrium;
 - (d) unit of account;
 - (e) universality;
 - (f) specification;
 - (g) sound financial management;
 - (h) transparency.
2. The Joint Undertaking shall have internal control standards and mechanisms in place, including rules for financial circuits and procedures for financial operations.
3. The Joint Undertaking shall establish an internal audit unit.
4. Notwithstanding the principle of equilibrium referred to in point 1(c), the Joint Undertaking shall have the possibility to take out loans in accordance with Article 4 of the Statutes, following approval of the Governing Board and under the conditions set out in the financial regulation.
5. The financial regulation shall, in particular, set out:
 - (a) the financial year, which shall begin on the first day of January and end on the last day of December;
 - (b) rules and procedures for the multi-annual project plan and resource estimates plan, their presentation and structure, including budgetary provisions and estimates for a period of five years;
 - (c) rules and procedures for the annual work programmes and resource estimates plan and their presentation and structure, including budgetary provisions and estimates for a period of two years;
 - (d) rules and procedures for the preparation and adoption of the annual budget, and its implementation, including procedures for commitments and payments;
 - (e) the principles for the collection of recovery and for the interest yielded by the resources contributed by the members;

- (f) rules and procedures for the internal financial control, including delegated powers in particular concerning the ceilings on the basis of which the Director can award contracts with or without the approval of the Executive Committee;
 - (g) rules and procedures for the method of calculating and transferring payments of the contributions by the Members of the Joint Undertaking;
 - (h) rules and procedures for the management of resources, including procedures for purchasing, selling and determining the value of tangible and intangible assets;
 - (i) rules and procedures for the keeping and presentation of accounts and inventory records and the drawing up and presentation of the annual balance sheet;
 - (j) rules and procedures for the management of conflicts of interest and the reporting of suspected irregularities and fraud.
6. The Joint Undertaking shall keep accrual-based accounts in accordance with international accounting standards and international financial reporting standards. Income and expenditures shall be managed and accounted for separately in the annual accounts, which shall include budgetary implementation of commitments and payments together with administrative expenses. The Joint Undertaking shall have no separate accounts by membership origin, but shall account for annual membership contributions received and activities undertaken.
7. The establishment plan of the Joint Undertaking shall be drawn up in agreement with the Commission and in accordance with Article 46(3)(d) of the Financial Regulation applicable to the general budget of the European Communities.
8. The estimates of revenue and expenditure, together with the operating accounts, the balance sheets of the Joint Undertaking for each financial year, shall be placed before the Commission, the Council and the European Parliament.
9. The Joint Undertaking shall adopt provisions and rules forming a procurement system, integrated and compatible with the ITER Organisation's procurement system and taking into account the Joint Undertaking's specific operational needs stemming, *inter alia*, from international commitments, thereby allowing the Joint Undertaking to accomplish efficiently and timely the scheduled procurement activities

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Council Decision establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it.

2. ABM / ABB FRAMEWORK

RESEARCH – Fusion Energy Research

3. LEGAL BASIS

Articles 45-51 of the Euratom Treaty

4. BUDGET LINES

4.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B.A lines)) including headings:

08.1902 (operational expenditure) and 08.010440 (administrative expenditure)

4.2. Duration of the action and of the financial impact:

35 years after the entry into force of the Council Decision (2007 – 2041)

4.3. Budgetary characteristics (add rows if necessary):

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
08.19.02	Non-comp	Diff ⁴⁵ /	YES*	NO	NO	No [1a]
08.01.04.40	Non - Comp	Non-diff ⁴⁶	YES*	NO	NO	No [1a]

* Euratom Research Budget

The Joint Undertaking will administer its own administrative credits according to its Financial Regulation.

An agreement between the Commission and the Joint Undertaking will establish the procedure regarding the Community participation:

⁴⁵ Differentiated appropriations

⁴⁶ Non-differentiated appropriations hereafter referred to as NDA

- Annual indicative budgets are established by the Joint Undertaking's proposal and addressed to the Commission during the PDB procedure (N-1).
- After the adoption of the annual budget, the Joint Undertaking will make a formal request to the Commission for needed credits in year N (operational and administrative needs).
- After approval of the request, the Commission will commit all the funds on the line and make payments to the Joint Undertaking for both operational and administrative expenses on the basis of duly justified requests.

5. SUMMARY OF RESOURCES

5.1. Financial Resources

All figures presented in this statement are indicative and subject to the approval of Financial Perspectives, Research Framework Programmes and associated Specific Programmes. Figures are presented in *current* values⁴⁷, unless otherwise stated. The expected contributions from the other Members of the Joint Undertaking are included in the tables below for information.

5.1.1. ITER

The total estimated financial resources of the ITER Construction, Operations and Decommissioning are indicated in Table 1⁴⁸. The estimated share of the Community contribution to be financed by the Euratom Seventh Framework Programme (FP7)⁴⁹ and Specific Programme 2007 – 2011 (SP7)⁵⁰ is EUR 986 million out of a total foreseen Community funding of EUR 4926 million.

For the ITER Construction phase the Community contribution will consist of 36,4% and the Host contribution of 9,1% of the total ITER construction costs. For the ITER Operation and Decommissioning phase the Community and Host contributions will be 27% and 7% respectively of the total ITER Operation and Decommissioning costs. Both Community and Host contributions shall be managed by the Joint Undertaking.

It is to be noted that the major part of the Euratom contribution to the ITER and Technology (IFMIF, Broader Approach) is in components to be procured and provided. These figures provided in this statement are consistent with values estimates assigned to these components but the actual purchasing costs might not necessarily be the same due to their highly specialised nature.

⁴⁷ Accumulated at 2% annually

⁴⁸ As set out in the ITER Final Design Report (ITER / EDA Documentation Series Number 24, IAEA, Vienna 2002) - Chapter 7), COM(2003) 215 Final, SEC(2002) 276 of 7 March 2002 and updated following the negotiations

⁴⁹ COM(2006) 364

⁵⁰ COM(2005) 445

Table 1: ITER

	TOTAL COSTS	EUR Mio	%Community contr *	ITER Host contr	Community contr *	FP7/SP7 '07-'11
I	ITER CONSTRUCTION (10 YEARS) 2007 - 2016⁵¹					
a	5.550	total in Constant 2005 Values	36,4%	9,1%	2.018	
b	6.322	Total in Current Values	36,4%	9,1%	2.299	986
II	ITER OPERATION (20 YEARS) 2017 - 2036					
a	266	Per Year in 2005 Values	27%	7%	106	
b	5.314	total in Constant 2005 Values	27%	7%	1.445	
c	8.187	Total in Current Values	27%	7%	2.227	0
III	ITER DECOMMISSIONING					
		2017 - 2036				
a	574	2005 Constant Values	27%	7%	156	
b	884	Total in Current Values	27%	7%	240	0
IV	ITER DE-ACTIVATION COSTS					
		2037 - 2041				
a	304	Total 2005 Constant Values	27%	7%	83	
b	585	Total in Current Values	27%	7%	159	0
V = (I+II+III+IV)	TOTAL COSTS ITER 2007 - 2041					
a	11.741	Total 2005 Constant Values	31,5%		3.702	
b	15.987	Total in Current Values	30,8%		4.926	986

* Community Contribution from the Euratom Research Budget.

Figures mentioned are indicative and subject to approval of the Euratom FP7 and SP7 budgets as well as subsequent Framework Programmes and Specific Programmes budgets.

⁵¹ Including provision for the cost sharing between the Parties set out in the Common Understanding "Cost Sharing for all Phases of the ITER Project"

5.1.2. *Technology (IFMIF, Broader Approach and Others)*

The resource estimates for Technology are indicated in Table 2. The estimated total Community contribution to all the Technology activities consists of EUR 524 million for the ten year period, of which a total of EUR 169 million is proposed for the period 2007 – 2011.

The estimated Euratom contribution to Broader Approach Activities, consists of EUR 382 million for the period of 10 years. It is foreseen that Members of the Joint Undertaking will provide ‘voluntary in-kind contributions’ to the Broader Approach Activities. Therefore, the subdivision of the overall budget is at this stage indicative only and will depend on the actual volume of voluntary contributions.

The estimated Community contribution to the IFMIF Construction costs, which are foreseen to be EUR 1022 million, are EUR 408 million. The total estimated costs of IFMIF operations and decommissioning are foreseen to be EUR 1433 million in 2005 values. Pending the finalisation of the negotiations it is to be estimated that the Community will provide 40% of the costs.⁵²

⁵² The Cost Estimates of the Construction of IFMIF and EVEDA have been prepared in December 2003 by the IFMIF International Team (25 December 2003).

Table 2: Technology (IFMIF, Broader Approach and Others)

	TOTAL COSTS	EUR Mio	%Com- munity contr *	ITER HOST/ member contr	Com- munity contr *	FP7/SP7 '07-'11
IX (VI+VII+VIII)	=TECHNOLOGY 2007 - 2016					
a	979	Constant 2005 Value			451	
b	1137	Current 10 year value			524	169
VI	OF WHICH FOR ITER REALISATION YEARS 2007 – 2016					
a	265	Constant 2005 Value	100%		265	
b	300	Current 10 year value	100%		300	142
VII	OF WHICH BROADER APPROACH AND OTHER TECHNOLOGY					
		2007 - 2016				
a	97	IFMIF EVEDA (2007 - 2012)	PM	PM	PM	
b	161	NCT (JT-60 Tokamak)	PM	PM	PM	
c	81	IFERC Fusion Centre Rokkasho	PM	PM	PM	
d	339	Total BA EUR Constant 2005 Value	PM	PM	PM	
e	382	Total BA Current 10 year value	PM	PM	PM	
f	60	Other Technology Constant value	100%		60	
g	70	Other Technology Current value	100%		70	27

	TOTAL COSTS	EUR Mio	%Community contr *	ITER HOST/ member contr	Community contr *	FP7/SP7 '07-'11
VIII	OF WHICH FOR IFMIF CONSTRUCTION					
		2014 - 2016 (three years)				
a	316	Constant 2005 Value	40%	10%	126	
b	386	Current values	40%	10%	154	0
	TECHNOLOGY 2017 - 2041					
X	IFMIF CONSTRUCTION					
		2017 - 2019 (three years)				
a	492	Constant 2005 Value	40%	10%	197	
b	636	Current values	40%	10%	254	0
XI	IFMIF OPERATIONS AND DECOMMISSIONING					
		2019 - 2041				
a	1433	Constant 2005 Value	40%	10%	573	
b	2346	Current values	40%	10%	945	0

* Community Contribution of the Euratom Research Budget.

Figures mentioned are indicative and subject to approval of the Euratom FP7 and SP7 budgets as well as subsequent Framework Programmes and Specific Programmes budgets.

5.1.3. Administration costs of the Joint Undertaking

The estimated Joint Undertaking's administration expenses consist of EUR 324 million for the period 2007 – 2016. A total of EUR 135 million is proposed to be included in the Euratom FP7 and SP7. These are to be exclusively used and managed by the Joint Undertaking.

Table 3: Administration needs 2007 – 2016 for ITER and Technology

XII	ADMINISTRATION (EUR Mio)					FP7/SP7 '07-'11
A		10 YEARS CURRENT VALUES			324	135
XII/XIII		<i>administration as % of Community contribution</i>			10,3%	10,5%

Figures mentioned are indicative and subject to approval of the Euratom FP7 and SP7 budgets as well as subsequent Framework Programmes and Specific Programmes budgets.

5.2. Summary of total resources needed

Table 4: Summary of resources needed

XIII	TOTAL COMMUNITY CONTRIBUTIONS FOR 10 YEARS (2007 – 2016) (CURRENT VALUES) EUR Mio					3.147	
	Of which	lb	ITER			2.299	
			Administration	81%		264	
	IXb		TECHNOLOGY			524	
			Administration	19%		60	
			Total Administration	10,3%		324	
COMMUNITY CONTRIBUTIONS FOR YEARS 11 - 35 (2017 – 2041) EUR Mio							
					Constant 2005 value	Current values	
XIV	TOTAL					2.887	4.502
	Vb – lb		ITER		1.684	2.626	
			Administration	81%	353	550	
	Xb + Xlb		TECHNOLOGY		770	1.200	
			Administration	19%	80	125	
			Total administration	15%	433	675	

Figures mentioned are indicative and subject to approval of Euratom FP7 and SP7 budgets as well as subsequent Framework Programmes and Specific Programmes budgets.

Table 5: Proposals for FP7/SP7 and FP8/SP8 Euratom (2007 – 2011 and 2012 - 2016); and remaining balances for the period 2017 – 2041

All Figures in current values (EUR million) and inclusive of foreseen Administration needs						
Indicative requested budgets in Euratom FP7 and SP7 (2007 – 2011)						
			ITER	YEAR 1 - 5	(2007 – 2011)	1.096
			Technology			194
XV			Total			1.290
To be requested additionally for 2012 – 2016						
				YEAR 6 - 10	(2012 – 2016)	
			ITER			1.467
			Technology			390
XVI			Total			1.857
To be requested additionally for 2017 – 2041						
				YEARS 11 - 37	(2016 – 2041)	
			ITER			3.176
			Technology			1.325
XVII			Total			4.502

Figures mentioned are indicative and subject to approval of the Euratom FP7 and SP7 budgets as well as subsequent Framework Programmes and Specific Programmes budgets.

Summary of commitment appropriations (CA) and payment appropriations (PA)

Expenditure type	Section no.	MEUR	2007	2008	2009	2010	2011	2012 - 2016	Total 2007-2016
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Operational expenditure⁵³

Commitment Appropriations (CA)	8.1	a	92,8	164,8	279,1	297,7	320,6	1.668,2	2.823,2
Payment Appropriations (PA)		b	46,4	64,4	134,2	185,4	265,6	1.392,1	2.088,0

Administrative expenditure within reference amount⁵⁴

Technical & administrative assistance (NDA)	8.2.4	c	15,3	27,5	28,9	30,9	32,6	188,8	324,0
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c	108,1	192,3	308,0	328,6	353,2	1.857,1	3.147,3
Payment Appropriations		b+c	61,7	91,9	163,1	216,3	298,1	1.580,9	2.412,1

Administrative expenditure not included in reference amount⁵⁵

Not Applicable / only RESEARCH EURATOM RESOURCES

Total indicative financial cost of intervention

Commitment Appropriations			108,1	192,3	308,0	328,6	353,2	1.857,1	3.147,3
Payment Appropriations			61,7	91,9	163,1	216,3	298,1	1.580,9	2.412,1

Figures mentioned are indicative and subject to approval of the Euratom FP7 and SP7 budgets as well as subsequent Framework Programme and Specific Programme budgets.

5.2.1. Compatibility with Financial Programming

- Proposal is compatible with existing financial programming. Subject to final approval of the Euratom FP7 and SP7 budgets.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Interinstitutional Agreement⁵⁶ (i.e. flexibility instrument or revision of the financial perspective).

⁵³ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

⁵⁴ Expenditure within article xx 01 04 of Title xx.

⁵⁵ Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

The Proposed Financial Programming will be financed by the Research Framework Programmes, for which proposals have been included in the Commission's Financial Perspectives 2007 – 2013⁵⁷. The duration of the proposed action necessitates financial resources from the subsequent Framework Programmes.

5.2.2. *Financial impact on Revenue*

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

5.3. **Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.**

	2007	2008	2009	2010	2011	2012 - 2016
Annual requirements						
Total number of human resources	175	205	216	228	238	238*

* Average per year

6. CHARACTERISTICS AND OBJECTIVES

6.1. Needs to be met in the short or long term

The Council recognised in its decision of 29 October 2002 that "*once a decision is taken to go ahead with the (ITER) project, [...] organisational changes will be required, in particular to steer jointly the European contribution to ITER*".⁵⁸ For the effective discharge of Euratom's international obligations to the ITER Organisation, a Joint Undertaking shall be established for a duration of 35 years.

6.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

Given the scale and breadth of the international commitments that Euratom must fulfil, in particular the need to procure cutting edge components and directly support associated R&D, it is necessary to create an entity with its own legal personality that can operate flexibly and respond rapidly in an industry-like environment.

⁵⁶ See points 19 and 24 of the Interinstitutional agreement.

⁵⁷ COM (2004) 101

⁵⁸ OJ L 294, 29.10.2002, p.74

6.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

Fusion Energy Research: Developing the knowledge base for, and realising ITER as the major step towards, the creation of prototype reactors for power stations which are safe, sustainable, environmentally responsible, and economically viable. Quantitative and qualitative indicators will be developed to show the progress on the European procurements of components for ITER-Construction and afterwards.

6.4. Method of Implementation (indicative)

Show below the method(s)⁵⁹ chosen for the implementation of the action.

Centralised Management

Directly by the Commission:

Indirectly by delegation to:

Executive Agencies

National public-sector bodies/bodies with public-service mission

Shared or decentralised management

with Member states

with Third countries

Joint management with international organisations (please specify)

The Commission proposed to establish a legal entity in the form of a Joint Undertaking under Articles 45-51 of the Euratom Treaty in its proposals for the Euratom FP7 and SP7. Member States will be Members of the Joint Undertaking and represented in its Governing Board and provide resources for its activities. The Joint Undertaking, of which Euratom is a Member and represented by the Commission in the Governing Board with a veto-right, will manage the execution of its work plan.

7. MONITORING AND EVALUATION

7.1. Monitoring system

Internal Control Standards will be set up by the Joint Undertaking in accordance with the principles applied by the European Commission. An Internal Audit Unit will be established that reports to the Director. The presence of Euratom with a veto-right in the Governing Board of the Joint Undertaking will ensure that the proper monitoring principles can and will be followed and that action can be taken if needed.

⁵⁹ If more than one method is indicated please provide additional details in the "Relevant comments" section of this point

Monitoring of implementation management would also be ensured by operational senior management within the Commission on a continuous basis with annual check points and using a common set of management performance indicators. Adequate resource would be given to this process. The annual results of this exercise will be used to inform senior management and as an input to the multi-annual assessment exercise.

7.2. Evaluation

7.2.1. Ex-ante Evaluation

In line with the Commission's requirements, an ex-ante evaluation of the Seventh Framework Programme, under which the Joint Undertaking will be established, has been carried out⁶⁰. In addition, the Commission has conducted an extensive enquiry involving all the stakeholders, in particular, the CCE-FU⁶¹.

7.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

In preparing the current proposals, the Commission has taken into account the experience gained in setting up and winding down the Joint European Torus (JET) Joint Undertaking which was established under the Euratom Treaty and is arguably the most successful fusion experiment in the world.

7.2.3. Terms and frequency of future evaluation

The Annual Activity Report shall record the implementation of the Work Programmes by the Joint Undertaking and evaluate the results with respect to the objectives and the timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the Joint Undertaking.

Towards the end of the ITER construction phase (8-10 years time), an evaluation of the progress made by the Joint Undertaking towards its objectives shall be carried out. Evaluation methods may include: expert panels; sampled analyses, case studies and surveys; longitudinal studies; cost-benefit analysis or follow-on macroeconomic impact analysis.

8. ANTI-FRAUD MEASURES

Appropriate measures shall be taken to prevent irregularities and fraud and the necessary steps shall be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Regulations (EC, Euratom) No 2988/95; No 2185/96; and Regulation (EC) No 1073/1999.

⁶⁰ SEC(2005) 430

⁶¹ Consultative Committee for the Euratom Specific Research and Training Programme in the Field of Nuclear Energy (Fusion) (CCE-FU)

9. DETAILS OF RESOURCES

9.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	2007		2008		2009		2010		2011		2012-2016		TOTAL 2007-2016	
	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.1 ITER Construction		73,235		152,667		268,075		289,620		311,946		1.466,758		2.562,301
Action 1.....														
- Output 1														
- Output 2														
Action 2.....														
- Output 1														
Sub-total Objective 1														
OPERATIONAL OBJECTIVE No.2 Technology		34,865		39,633		39,925		38,980		41,254		390,304		584,961
Action 1.....														
- Output 1														
Sub-total Objective 2														

(Headings of Objectives, actions and outputs should be provided)	2007		2008		2009		2010		2011		2012-2016		TOTAL 2007-2016	
	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.n ¹														
Sub-total Objective n														
TOTAL COST		108,100		192,300		308,000		328,600		353,200		1.857,062		3.147,262

2007 – 2011 figures: as requested for Euratom FP7 and SP7

2012 – 2016 indicative figures for the remainder of the ten year period, following tables 1 and 2.

Figures mentioned are indicative and subject to approval of the FP7 and SP7 budgets as well as subsequent Framework Programme and Specific Programme budgets.

9.2. Administrative Expenditure

9.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		2007	2008	2009	2010	2011	2012 – 2016*
Staff financed by art. XX 01 05		30	60	70	75	85	85
Contract Agents							
Other staff ⁶² financed by art. XX 01 04/05	AD	105	105	106	113	113	113
	<i>Of which temp posts</i>	54	54	56	62	62	62
	AST	40	40	40	40	40	40
	<i>Of which temp posts</i>	31	31	31	31	31	31
TOTAL		175	205	216	228	238	238

* Average yearly staffing for the five year period.

9.2.2. Sources of human resources (statutory)

The establishment plan of the Joint Undertaking shall be drawn up in agreement with the Commission and in accordance with Article 46(3)(b) of the Financial Regulation applicable to the general budget of the European Communities.

- Posts currently allocated to the management of the programme to be replaced or extended:
- Posts pre-allocated within the APS/PDB exercise for year 2007: **85 new temporary posts have been requested for FP7.**
- Posts to be requested in the next APS/PDB procedure.
- Posts to be redeployed using existing resources within the managing service (internal redeployment). **60 permanent posts to be redeployed.**

⁶² Cost of which is included within the reference amount

- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question.

Calculation

Based on 114K Euro each (officials / temp agents; FP7 proposals at 2007 value), to be increased by 5% annually for inflation and promotions.

Contract Agents are taken at 74K Euro each (FP7 proposals at 2007 values) and follow the same conditions as above.

Staff foreseen in Japan as part of the Broader Approach are taken at 212K each.