

**Discharge 2012: Joint Undertaking for ITER and the development of fusion energy**

**1. European Parliament decision of 3 April 2014 on discharge in respect of the implementation of the budget of European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012 (C7-0335/2013 – 2013/2247(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012, together with the Joint Undertaking's replies<sup>1</sup>,
- having regard to the Council's recommendation of 18 February 2014 (05851/2014 – C7-0053/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup> and in particular Article 185 thereof,
- 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 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it<sup>4</sup>, and in particular Article 5(3) thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>5</sup>,
- having regard to 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

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<sup>1</sup> OJ C 369, 17.12.2013, p. 35.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 90, 30.3.2007, p. 58.

<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>1</sup>, and in particular Article 108 thereof,

- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A7-0198/2014),
1. Grants the Director of the European Joint Undertaking for ITER and the Development of Fusion Energy discharge in respect of the implementation of the Joint Undertaking's budget for the financial year 2012;
  2. Sets out its observations in the resolution below;
  3. Instructs its President to forward this Decision and the resolution that forms an integral part of it to the Director of the European Joint Undertaking for ITER and the Development of Fusion Energy, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

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<sup>1</sup> OJ L 328, 7.12.2013, p. 42.

## **2. European Parliament decision of 3 April 2014 on the closure of the accounts of European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012 (C7-0335/2013 – 2013/2247(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012, together with the Joint Undertaking's replies<sup>1</sup>,
- having regard to the Council's recommendation of 18 February 2014 (05851/2014 – C7-0053/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>, and in particular Article 185 thereof,
- 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 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it<sup>4</sup>, and in particular Article 5(3) thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>5</sup>,
- having regard to 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) No 966/2012 of the European Parliament and of the Council<sup>6</sup>, and in particular Article 108 thereof,
- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A7-0198/2014),

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<sup>1</sup> OJ C 369, 17.12.2013, p. 35.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 90, 30.3.2007, p. 58.

<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

<sup>6</sup> OJ L 328, 7.12.2013, p. 42.

1. Approves the closure of the accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012;
2. Instructs its President to forward this Decision to the Director of the European Joint Undertaking for ITER and the Development of Fusion Energy, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

**3. European Parliament resolution of 3 April 2014 with observations forming an integral part of the decision on discharge for implementation of the budget for European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012 (C7-0335/2013 – 2013/2247(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2012, together with the Joint Undertaking's replies<sup>1</sup>,
- having regard to the Council's recommendation of 18 February 2014 (05851/2014 – C7-0053/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>, and in particular Article 185 thereof,
- 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 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it<sup>4</sup>, and in particular Article 5(3) thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>5</sup>,
- having regard to 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) No 966/2012 of the European Parliament and of the Council<sup>6</sup>, and in particular Article 108 thereof,
- having regard to its previous discharge decisions and resolutions,
- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,

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<sup>1</sup> OJ C 369, 17.12.2013, p. 35.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 90, 30.3.2007, p. 58.

<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

<sup>6</sup> OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control (A7-0198/2014),
- A. whereas the European Joint Undertaking for ITER and the Development of Fusion Energy ("the Joint Undertaking") was set up in March 2007 for a period of 35 years,
- B. whereas the members of the Joint Undertaking are Euratom, represented by the Commission, the Member States of Euratom and other countries which have concluded cooperation agreements with Euratom in the field of controlled nuclear fusion,
- C. whereas the Joint Undertaking started to work autonomously on March 2008,
- D. whereas the Court of Auditors states that it has obtained reasonable assurances that the annual accounts of the Joint Undertaking for the financial year 2012 are reliable and that the underlying transactions are legal and regular,
- E. whereas on 9 October 2008 the Court of Auditors delivered Opinion No 4/2008 on the Joint Undertaking's Financial Regulation,
- F. whereas at the creation of the Joint Undertaking the indicative total resources deemed necessary for the period 2007 to 2014 were EUR 9 653 000 000,

#### ***Budgetary and financial management***

1. Notes that after two amendments reducing the 2012 budget the utilisation rates for the available commitment and payment appropriations were 99,9 % and 94,5%, respectively;
2. Notes, however, that the budget of the Joint Undertaking for the financial year 2012 was initially adopted for the collective amount of EUR 503 million in commitment appropriations and that therefore without those reductions the utilisation rate for the payment appropriations would be 71 %;
3. Notes that of the EUR 1 440 million in commitment appropriations available for operational activities, 55,4 % was implemented through direct individual commitments in 2012, while the remainder, were globally committed for large complex contracts requiring long negotiation times and with ensuing individual commitments in 2013;
4. Notes with concern the high cash balance, which amounted to EUR 51 833 097 at the end of the year, representing nearly 14 % of the final available payment appropriations in 2012;

#### ***Internal control systems***

5. Ascertains from the Court of Auditors that the Joint Undertaking's internal control systems are not yet fully established and implemented although significant progress was made during 2012;
6. Takes note that the following actions still need to be implemented:
  - a management system to regularly monitor the validity of project cost estimates and report on cost deviations,
  - further efforts are necessary with regard to the systematic verification, prior to payment,

of technical acceptance reports and the audit certificates on financial statements,

- a comprehensive overall control and monitoring system for grants and operational contracts,
  - the action plans adopted by the Joint Undertaking in response to internal audits have not been fully implemented,
  - the mitigating actions for the corporate risk management system have yet to be implemented;
7. Appreciates that the Joint Undertaking has set up a system for performing audits at the level of contractors with the aim of checking compliance with the quality assurance requirements; notes that the six audits performed on grant agreements, for *ex post* financial and compliance controls, detected errors of 1,3 % of the total value of the cost claims audited (EUR 8,3 million);
  8. Regrets that the CVs of the members of the Management Board and the Executive Director are not publicly available; calls on the Joint Undertaking to remedy the situation as a matter of urgency; acknowledges that the Joint Undertaking has adopted a Decision in 2013 that sets rules regarding the prevention and management of conflicts of interests;
  9. Believes that a high level of transparency is a key element in order to mitigate the risks of conflicts of interests; calls, therefore, on the Joint Undertaking to make its policy and/or arrangements on the prevention and management of conflicts of interests and its implementing rules as well as the list of the members of the management boards, and CVs, available on its website;
  10. Invites the Court of Auditors to monitor the Joint Undertaking's policies as regards the management and prevention of conflicts of interests by drafting a Special Report on the matter by the next discharge procedure;

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

11. Acknowledges that the Court of Auditors tested a sample of five operational procurement procedures; notes that for the grants, the average number of proposals received was only one per call but that this reflects the highly specialised nature of the calls and the outcome of the Union fusion programme in creating a European research area in fusion with minimal duplication of efforts and close collaboration among teams active in one field; observes that the latter manifests itself in pan-European consortia essentially behind all proposals in response to F4E calls; urges the Joint Undertaking to develop an Action Plan with concrete measures and deadlines to maximise competition and to follow the value-for-money principle in the preparation, publication, evaluation and contract and management phases of the call;
12. Regrets to be informed that the Joint Undertaking has not developed an internal procedure to systematically assess the risk of a payment being made while a non-conformity report is under review by the ITER organisation at the date of payment; calls on the Joint Undertaking to take the necessary measures to reinforce controls before payments are executed to provide assurance regarding compliance with the Joint Undertaking financial requirements and the conformity of the underlying costs;

### ***Union contribution to ITER construction phase***

13. Recalls that in 2010, the Council revised the final cost figure of the Joint Undertaking's contribution for the construction phase to EUR 6 600 000 000 (2008 value), thus doubling the initial estimate;
14. Takes note that in 2012, the internal auditor's report on pre-procurement activities for the ITER project pointing out that:
  - neither of the two cost estimating exercises carried out by that date had broken down the cost estimates of the Union contribution to the ITER construction phase by contract,
  - the Joint Undertaking was exposed to significant financial risks linked to the evolution of commodity prices,
  - the Joint Undertaking did not yet have in place a tool for regularly monitoring the validity of the estimates and reporting on potential cost deviations;
15. Notes, furthermore, that in its progress report of September 2012 to the European Competitiveness Council, the Joint Undertaking stressed that there was a risk of cost deviations in the range of EUR 180-250 million, or 3 % of the latest estimated project cost of EUR 6,6 billion;
16. Takes note that in June 2013, the Joint Undertaking completed an exercise to update the cost estimate of the Union contribution to the construction phase of the project that estimates the current risk of increase at EUR 290 million, or 4,4 % of the budget approved by the Council; notes that a significant escalation in the scope of the components to be provided to the ITER project is at the origin of that estimated increase;
17. Notes with great concern that the Joint Undertaking considers the current ITER reference schedule to be unrealistic; urges the Joint Undertaking to work with its ITER partners to establish a new and reliable schedule and to do its utmost to ensure that the schedule is maintained while avoiding budget deviations;

### ***European Research Joint Undertakings horizontal aspects***

18. Takes note that the audit approach taken by the Court of Auditors comprises analytical audit procedures, the assessment of key controls of the supervisory and control systems and the testing of transactions at the level of the Joint Undertaking but not at the level of the members or final beneficiaries of the Joint Undertaking;
19. Notes that audit testing at the level of the members or final beneficiaries is carried out either by the Joint Undertaking or by external audit firms contracted and monitored by the Joint Undertaking;
20. Welcomes the Court of Auditors' Special Report 2/2013: 'Has the Commission ensured efficient implementation of the Seventh Framework Programme for Research?' where the Court of Auditors examined whether the Commission has ensured efficient implementation of the Seventh framework programme for research and technological development (FP7);
21. Takes note that the audit also covered the setting-up of the Joint Technology Initiatives (JTIs);



22. Agrees with the Court of Auditors' conclusion that the JTIs have been set up to support long-term industrial investment, in particular research areas; notes, however, that it has taken on average two years to grant financial autonomy to a JTI with the Commission usually remaining responsible for one third of the expected operational lifetime of the JTIs;
23. Notes, moreover, that according to the Court of Auditors, some JTIs have been particularly successful in getting small and medium-sized enterprises (SMEs) involved in their projects and nearly 21 % of funding provided by the JTIs has gone to SMEs;
24. Draws attention to the fact that the total indicative resources deemed necessary for the seven European Research Joint Undertakings that have so far been established by the Commission under Article 187 of the Treaty on the Functioning of the European Union - with the notable exception of the Galileo Joint Undertaking - for their period of existence amounts to EUR 21 793 000 000;
25. Notes that the Joint Undertakings' total 2012 forecasted budgeted income amounted to some EUR 2,5 billion or about 1,8 % of the 2012 Union general budget, while approximately EUR 618 million came from the general budget (cash contribution from the Commission) and approximately EUR 134 million came from the industrial partners and members of the Joint Undertakings;
26. Notes that the Joint Undertakings employ 409 permanent and temporary staff or less than 1 % of total Union officials authorised under the Union general budget (staff establishment plan);
27. Recalls that the total Union contribution deemed necessary for the Joint Undertakings for their period of existence amounts to EUR 11 489 000 000;
28. Invites the Court of Auditors to comprehensively analyse the JTIs and the other joint undertakings in a separate report in light of the substantial amounts involved and the risks - notably reputational - presented; recalls that Parliament has previously requested that the Court of Auditors draw up a special report on the capacity of the joint undertakings, together with their private partners, to ensure added value and efficient execution of Union research, technological development and demonstration programmes; notes that the joint undertakings are deemed to ensure funding for long-term industrial investments and to foster private investments in research.