

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 13 October 1998

approving amendments to the Statutes of the Joint European Torus (JET), Joint Undertaking

(98/585/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 50 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, for the purpose of implementing the JET Project, the Council, by Decision 78/471/Euratom ⁽⁴⁾, established the Joint European Torus (JET), Joint Undertaking and adopted the Statutes thereof;

Whereas Articles 4 and 8 of the JET Statutes should be amended following the judgment of the Court of First Instance of 12 December 1996 in Joined Cases T-177/94 and T-377/94, which found that the existing difference in treatment between two categories of JET staff was no longer justified on objective grounds;

Whereas this amendment should allow the JET Council to adopt the necessary transitional measures, in particular concerning the abovementioned difference of treatment of Project Team staff assigned before 21 October 1998;

Whereas the Forschungszentrum Jülich GmbH (KFA) has given notice of its withdrawal from the Joint Undertaking from 31 December 1997; whereas the Forschungszentrum Karlsruhe (FZK) has applied for membership of the Joint Undertaking from 1 January 1998; whereas the JET Council has approved this withdrawal from, and application for, membership of the Joint Undertaking and the amendments required thereby;

Whereas, following the conclusion of a Contract of Association between Euratom and the Dublin City University (DCU), the Dublin City University is replacing Ireland as Member of the Joint Undertaking; whereas the Instituto de Cooperação Científica e Tecnológica Internacional (ICCTI) is replacing the Junta Nacional de Investigação Científica (JNICT) as Portuguese member of the Joint Undertaking. The JET Council has approved the amendments to the Statutes required by these changes;

Whereas, following the accession of Austria to the European Union, the Österreichische Akademie der Wissenschaften (ÖAW) has applied for membership of the Joint Undertaking; whereas the JET Council has approved this application for membership of the Joint Undertaking and the amendments to the Statutes required thereby;

Whereas the JET Council has approved another amendment to the Statutes required by the adoption of the new UK Companies Act 1985 and 1989,

⁽¹⁾ OJ C 108, 7. 4. 1998, p. 3.

⁽²⁾ Opinion delivered on 8 October 1998 (not yet published in the Official Journal).

⁽³⁾ OJ C 235, 27. 7. 1998, p. 63.

⁽⁴⁾ OJ L 151, 7. 6. 1978, p. 10. Decision as last amended by Decision 96/305/Euratom (OJ L 117, 14. 5. 1996, p. 9).

HAS DECIDED AS FOLLOWS:

Article 1

The amendments to the Statutes of the Joint European Torus (JET), Joint Undertaking, annexed to this Decision, are hereby approved.

Article 2

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

Done at Luxembourg, 13 October 1998.

For the Council

The President

C. EINEM

ANNEX

1. Article 1.3 of the Statutes of the Joint European Torus (JET), Joint Undertaking shall be replaced by the following:

'1.3. The Joint Undertaking shall have the following members:

The European Atomic Energy Community (hereinafter referred to as "Euratom"),

The Belgian State (hereinafter referred to as "Belgium"), acting for its own part (Laboratoire de physique des plasmas of the Ecole Royale Militaire — Laboratorium voor plasmaphysica van de Koninklijke Militaire School) and on behalf of the Université libre de Bruxelles (Service de physique statistique, plasmas et optique non linéaire de l'ULB) and of the Centre d'études de l'énergie nucléaire (CEN)/Studiecentrum voor Kernenergie (SCK),

the Centro de Investigaciones Energéticas Medioambientales y Tecnológicas, Spain (hereinafter referred to as "Ciemat"),

the commissariat à l'énergie atomique, France (hereinafter referred to as "CEA"),

the Ente per le nuove tecnologie, l'energia e l'ambiente (hereinafter referred to as "ENEA" which since 1 January 1986, has represented all Italian activities falling within the Euratom Fusion Programme including that of the Consiglio nazionale delle ricerche, CNR),

the Hellenic Republic (hereinafter referred to as "Greece"),

the Forschungszentrum Karlsruhe, Germany (hereinafter referred to as "FZK"),

the Forskningscenter Risø, Denmark, (hereinafter referred to as "Risø"),

the Grand Duchy of Luxembourg (hereinafter referred to as "Luxembourg"),

the Instituto de Cooperação Científica e Tecnológica Internacional, Portugal (hereinafter referred to as "ICCTI"),

the Dublin City University, Ireland (hereinafter referred to as "DCU"),

the Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V. — Institut für Plasma-physik, Germany (hereinafter referred to as "IPP"),

the Naturvetenskapliga forskningsrådet, Sweden (hereinafter referred to as "NFR"),

the Swiss Confederation (hereinafter referred to as "Switzerland"),

the Stichting voor Fundamenteel Onderzoek der Materie, the Netherlands (hereinafter referred to as "FOM"),

the United Kingdom Atomic Energy Authority (hereinafter referred to as "the Authority" or "the Host Organisation"),

the Teknologian Kehittämiskeskus, Finland (hereinafter referred to as "TEKES"),

the Österreichische Akademie der Wissenschaften (hereinafter referred to as "ÖAW").'

2. Articles 4.1.1 and 4.1.2 shall be replaced by the following:

'4.1.1. The Members of the Joint Undertaking shall be represented in the JET Council as follows, the vote of each pair of representatives being weighted as indicated:

Representing representatives	Number of votes	Weighting
Euratom	2	5
Belgium	2	2
Ciemat	2	3
CEA	2	5
ENEA	2	5
Greece	2	1
Risø	2	2
Luxembourg	2	1
DCU	2	1
ICCTI	2	2

Representing representatives	Number of votes	Weighting
IPP and FZK jointly	2	5
NFR	2	2
Switzerland	2	2
FOM	2	2
Authority	2	5
TEKES	2	2
ÖAW	2	2

4.1.2. For their adoption, acts of the JET Council shall require at least 31 votes in favour.'

3. Article 4.2.2(d) shall be replaced by the following:

'(d) nominate the Director and the senior staff of the Project and determine their period of secondment, approve the main structure of the Project Team and decide the procedures for the secondment and management of staff;'

4. Articles 8.1, 8.3, 8.4, 8.5 and 8.7 shall be replaced by the following:

'8.1 The Project Team shall assist the Director of the Project in the performance of his duties. Its staff shall be fixed in the staff establishment as defined in the annual budget. It shall be composed of staff coming from the Members of the Joint Undertaking as provided for in Article 8.3.'

'8.3 The Members of the Joint Undertaking having association contracts with Euratom, or limited duration contracts in the framework of the Euratom Fusion Programme in member States where there is no association (hereafter referred to as the Parent Organisation) shall make available to the Joint Undertaking qualified scientific, technical and administrative staff.

8.4. Staff made available by Parent Organisations shall be seconded to the Joint Undertaking and shall:

(a) remain throughout the period of secondment in the employment of their Parent Organisations on the terms and conditions of service of those Organisations;

(b) be entitled, throughout the period of their secondment to an allowance as specified in the "Rules applicable to Secondment of Personnel from Parent Organisations to the Joint Undertaking", adopted by the JET Council under Article 8.5.

8.5. The JET Council shall adopt the detailed procedures for the management of staff (including "Rules applicable to Secondment of Personnel from Parent Organisations to the Joint Undertaking"). It shall adopt the transitional provisions and shall take the necessary measures with regard to the project team assigned to the Joint Undertaking by the Commission and by the host organisation before the 21 October 1998.'

'8.7. All staff expenditure, including reimbursement of staff expenditure incurred by the seconding Parent Organisations and expenditure related to staff assigned to the Joint Undertaking by the Commission and the host organisation prior to the entry into force of the above provisions, shall be borne by the Joint Undertaking.'

5. Articles 8.8 and 8.9 shall be deleted.

6. Article 22.2 shall be replaced by the following:

'22.2 Without prejudice to the provisions of the third paragraph of Article 49 of the Euratom Treaty, for the avoidance of doubt, the Joint Undertaking shall not be regarded as a company within the meaning of the Companies Act 1985 and 1989 of the United Kingdom.'