

**RESOLUTION (EU, Euratom) 2017/1745 OF THE EUROPEAN PARLIAMENT****of 27 April 2017****with observations forming an integral part of the decision on discharge in respect of the implementation of the budget for the European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy) for the financial year 2015**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2015,
  - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0108/2017),
- A. whereas the European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy) (the 'Joint Undertaking') was established in March 2007 for a period of 35 years by Council Decision 2007/198/Euratom;
- B. whereas the members of the Joint Undertaking are Euratom, represented by the Commission, the Member States of Euratom, and third countries which have concluded a cooperation agreement with Euratom in the field of controlled nuclear fusion;
- C. whereas the objectives of the Joint Undertaking are to provide the Union's contribution to the ITER international fusion energy project; to implement the Broader Approach Agreement between Euratom and Japan; and to prepare for the construction of a demonstration fusion reactor (DEMO);
- D. whereas the Joint Undertaking started to work autonomously in March 2008;

**General**

1. Notes that the report of the Court of Auditors (the 'Court') on the Joint Undertaking's annual accounts for the financial year 2015 (the 'Court's report') finds that the Joint Undertaking's annual accounts presented fairly, in all material respects, its financial position as at 31 December 2015 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its financial rules and the accounting rules adopted by the Commission's accounting officer;
2. Acknowledges that the Court's report states that the transactions underlying the Joint Undertaking's annual accounts for the financial year 2015 are, in all material respects, legal and regular;
3. Expresses concern that the Court's report once again emphasises that the complexity of ITER activities puts the amount of the Joint Undertaking's contribution to the construction phase of the ITER project at significant risk of increasing, but also recognises that significant progress across a range of areas impacting on the whole management structure of the project has been achieved;
4. Highlights that the Joint Undertaking is responsible for the management of the Union's contribution to the ITER project and that the budget cap of EUR 6 600 000 000 must be maintained until 2020; stresses, furthermore, that the main challenge for the ITER project is to make sure that the realistic schedule and budgeting are kept and that any potential deviation or problem is detected at the earliest stage possible; notes that the Court's report, once again, notes in its 'emphasis of matter' that the budget cap of EUR 6 600 000 000, which was double the initial budgeted costs for the construction phase in 2010, did not include contingency costs; notes some progress, therefore, in the updated valuation to the Joint Undertaking's contribution in 2015, which is a more comprehensive figure; is aware that recent changes that still are being introduced in this regard are key for the future success of the project;
5. Expresses serious concern about the fact that the Court's report states that in 2015 the Joint Undertaking launched a major exercise to calculate the estimated cost at completion of the Joint Undertaking's contribution to the construction phase of the ITER project, resulting in an expected cost increase of around EUR 2 375 000 000, which represents an increase of 35 % over the figure approved by the Council in 2010; notes that this amount is greater than the increase reported by the Joint Undertaking in November 2014, but acknowledges that this is due to the wider scope of the new calculation to cover the entire construction phase, rather than only estimated cost deviations on awarded contracts; welcomes the efforts taken by the Joint Undertaking to provide more global and realistic cost estimates;

6. Points out that the Court's report refers to the adoption by the Joint Undertaking's governing board of a 2015 action plan, in line with the ITER action plan, to face the challenges connected with the complexity of the ITER project; notes that the Council of ITER Organisation (the 'ITER Council') at its meeting of June 2016 finally adopted *ad referendum* the new schedule and resources for the ITER project (a new 'Baseline' accompanied by a staged approach towards reaching First Plasma) that were considered to be realistic, including setting key milestones for 2016 to 2017 and a target date of 2025 for reaching First Plasma; notes, furthermore, that in November 2016 the ITER Council approved *ad referendum* the overall project schedule to First Plasma in 2025 and to Operation Deuterium Tritium in 2035; notes, however, that the new Baseline has yet to be adopted by the Council of the European Union;
7. Insists that the Commission present, before July 2017, a communication on ITER project, which is essential for ensuring transparency of the whole project and setting out the way forward;
8. Points out that the Joint Undertaking's new director was appointed in January 2016 and has already introduced many necessary key changes; notes that the director put forward 21 new actions in addition to the 2015 action plan; notes the high level of ambition of the new actions, which go beyond budgetary and timeframe improvements by aiming for broad and comprehensive progress across a range of areas affecting ITER project performance, including management and communications, professionalisation of processes, and training and professional development for personnel;
9. Notes that in the process of granting the postponed 2014 discharge, the discharge authority requested the Joint Undertaking's director to present a detailed progress report on all the key actions that would confirm that the project is going the right direction and that all these actions are being implemented; recognises that that report has been presented to the discharge authority in January 2017;

#### **Budget and financial management**

10. Notes that the final 2015 budget available for implementation included commitment appropriations of EUR 467 901 000 and payment appropriations of EUR 586 080 000; notes that the utilisation rates for commitment and payment appropriations were 100 % and 99 % respectively; notes, however, that the implementation rate for commitment appropriations and payment appropriations with respect to the 2015 initial budget was 49 % and 82 % respectively;
11. Notes that out of the EUR 467 900 000 available for commitment appropriations, 52 % was implemented through direct individual commitments and the remaining 48 % through global commitments; points out that the lower performance in individual commitments than originally foreseen was mainly due to a decrease in the amount of cash contribution requested by ITER Organisation, a decrease in the amount of cash contribution requested by Japan and postponements of contracts in areas such as remote handling, diagnostics and plasma engineering;
12. Notes that the implementation of the budget was balanced with global commitments in accordance with the last amendment to the 2015 work programme for ongoing procurements to be finalised in 2016 of which the main domains were buildings (for amendments or options on the main buildings contracts) and a vacuum vessel (for completion of the procurement of the main vessel);
13. Acknowledges the fact that the full implementation of the 2015 budget made the level of cancelled appropriations very low for 2015, representing less than 0,1 % of the budget; observes that the total cancelled appropriations of EUR 925 783 which corresponded to the amounts not paid in 2015 on open administrative commitments were carried over from 2014;
14. Note that, for the 2015 financial year, the balance of the budget outturn amounted to EUR 1 070 000; notes that some miscellaneous revenue was not budgeted, such as the late payments of the 2014 membership contribution from Greece and interest due to the late payment by Spain;
15. Acknowledges that during 2015, the Joint Undertaking processed 4 200 payment transactions (excluding salaries), demonstrating a slight decrease of 3 % in comparison with 2014; further notes that, out of these, 1 500 payments corresponded to settlements of invoices, for which the average time to pay invoices has decreased by around seven days as a result of efforts made in optimising the associated financial processes; notes with satisfaction that the implementation of the electronic workflow for payments in 2014 has shown a significant increase in terms of efficiency;

**Prevention and management of conflicts of interest and transparency**

16. Notes that the Joint Undertaking's governing board adopted an anti-fraud strategy and an action plan for 2015 to 2017, which explains the context in which Joint Undertaking operates, i.e. being responsible for managing a high amount of public budget, and the prevention and detection of respective fraud mechanisms; notes that particular objectives were set, such as the nomination of an ethics and OLAF officer and raising awareness;
17. Notes that in 2015 the Joint Undertaking adopted a decision on whistleblowing rules and the revision of the 2013 conflict of interest rules applicable to its bodies and committees;

**Personal selection and recruitment**

18. Acknowledges the fact that the Joint Undertaking adopted rules implementing the Staff Regulations; regrets that certain specific rules for the implementation of the Staff Regulations still remain to be adopted;
19. Notes, however, that the one of the key challenges remains the redeployment of the Joint Undertaking's staff to high priority areas and encourages the director to continue in his effort towards optimising resources between the Joint Undertaking and the ITER Organisation;

**Internal control**

20. Notes that, according to the Court's report, significant progress has been achieved in many areas of supervisory and control systems while the calculation of the estimated costs at completion for the construction phase was considered to be a major achievement;
21. Acknowledges the fact that the Joint Undertaking's governing board adopted an overall control and monitoring strategy with the main objective of providing reasonable assurance to the director and external stakeholders regarding the performance of the Joint Undertaking's internal control systems;
22. Recognises that the Joint Undertaking has developed the contract tracker tool (a portal by which to exchange documentation with suppliers), which is an important tool for monitoring of milestones and overall project progress; also observes that the Joint Undertaking started the development of a deviation and amendment to contracts tracker tool which allows the management of all amendments made to contracts; encourages the Joint Undertaking to further develop and fully exploit the possibilities offered by those systems;
23. Notes that the Joint Undertaking's internal audit capability completed two engagements and performed three follow-up engagements in 2015; expects the Joint Undertaking to inform the discharge authority about the recommendations and progress made regarding those engagements; notes, furthermore, that the Commission's internal audit service acknowledged the progress made by the Joint Undertaking in the sphere of procurements and concluded that seven out of nine audit recommendations from 2014 were adequately implemented;
24. Acknowledges the fact that the Joint Undertaking enhances its internal control on an ongoing basis by focusing resources on the ITER deliveries required for the First Plasma milestones while respecting the capped budget until 2020; notes that the Joint Undertaking's structure for ownership and responsibility was further enhanced in October 2016 with the creation of a new department focusing on commercial and financial issues; calls on the Joint Undertaking to report to the discharge authority on the developments achieved as the consequence of those organisational changes;

**Operational procurements and grants**

25. Notes that during 2015 a total of 73 operational procurement procedures were launched and 79 procurement contracts were signed for a value of about EUR 326 000 000; notes furthermore that those major operational procurements were awarded and signed in the area of buildings and remote handling, but significant procurements were also signed in relation to magnets and neutral beam;
26. Acknowledges that the average time to contract for procurements above EUR 1 000 000 decreased from 240 days to 140 days during 2015 in comparison with 2014, but should be further reduced to 100 days; points out that the average time to contract for procurements below EUR 1 000 000 and grants remained in line with those in 2014;

27. Notes that the Joint Undertaking's negotiated procedures constituted 45 % of the operational tendering procedures launched in 2015 (compared to 58 % in 2014); is persuaded that although the Joint Undertaking reduced the percentage of negotiated procedures in 2015, efforts are needed to increase the competitiveness of its operational procurement procedures wherever possible and appropriate; acknowledges that given the very limited competition for certain highly specific deliveries, negotiated procedures are often the most appropriate procurement method, particularly given the risk of an open tender leading to the contract being awarded to an inexperienced and thus unrealistic economic operator; invites the Joint Undertaking to report on the measures taken to increase the competitiveness of its operational procurement procedures where possible;
28. Highlights the fact that the Court's report notes significant progress in procurement procedures, but also points out several weaknesses such as a higher value of estimated costs at completion for two projects or a delay in one procurement procedure; invites the Joint Undertaking to make progress in negotiations with the ITER Organisation regarding better alignment of credit distribution to procurement arrangements;

#### **Legal framework**

29. Notes that the Court's report observes that in December 2015 the Joint Undertaking's governing board finally amended its financial regulation and implementing rules to align them with the new Union financial framework and that those rules entered into force on 1 January 2016; highlights the fact that the Commission issued a positive opinion on the amendments introduced by the Joint Undertaking in its financial rules, but requested the Joint Undertaking to consider further developing certain provisions relating to specific derogations from that new Union financial framework; notes that, according to the Joint Undertaking's reply, it planned to insert such provisions in its implementing rules by the end of 2016; invites the Joint Undertaking to inform the discharge authority about further progress in implementation;
30. Acknowledges the fact that the Joint Undertaking revised its working procedures and processes that were affected by its new financial regulation and implementing rules and its new procurement and grant rules; notes with satisfaction from the Joint Undertaking's reply that the new requirements were transposed into its working procedures (policies, processes, procedures, etc.);

#### **Intellectual property rights and industrial policy**

31. Notes that the Joint Undertaking adopted the single intellectual property document in 2016; notes, furthermore, that the Joint Undertaking formalised the use of that document by including it as an explicit step in all new processes for procurement procedures;

#### **Host State agreement**

32. Observes with satisfaction that in May 2016, following the endorsement of its governing board, the Joint Undertaking's director signed a renewed long-term lease agreement with the Kingdom of Spain for its offices, including the extension of the current office space by 1 000 m<sup>2</sup>; notes, furthermore, that the governing board endorsed the plans to refurbish the Joint Undertaking's office space.
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