

RESOLUTION (EU) 2020/1915 OF THE EUROPEAN PARLIAMENT**of 14 May 2020****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 for the financial year 2018**

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 2018,
 - having regard to Rule 100 of and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control (A9-0049/2020),
- A. whereas the European Joint Undertaking for ITER and the Development of Fusion Energy (the 'Joint Undertaking') was established in March 2007 for a period of 35 years by Council Decision 2007/198/Euratom ⁽¹⁾;
- 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;
- 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 2018 (the 'Court's report') finds the annual accounts to be presented fairly, in all material respects, with regard to the Joint Undertaking's financial position on 31 December 2018 and the results of its operations, its cash flows and the changes in its net assets for the year then ended, in accordance with its financial regulation and with the accounting rules adopted by the Commission's accounting officer;
2. Acknowledges the fact that the transactions underlying the annual accounts of the Joint Undertaking for the financial year 2018 are, in all material respects, legal and regular;
3. Highlights the fact that the Joint Undertaking recalculated its contribution to the project construction phase EUR 12 000 000 000, up from the EUR 6 600 000 000 approved by the Council in 2010; notes that figure does not include contingencies, even though the Commission suggested that a contingency of up to 24 months in terms of schedule and 10 to 20 % in terms of budget would be appropriate;
4. Notes that in November 2016, the ITER Organization Council (ITER Council) approved a new ITER project baseline; notes that the new ITER baseline estimates the achievement of 'first plasma' and the start of the operational phase in 2025 with the completion of the construction phase in 2035, but observes that the previous 2010 baseline estimated the completion of the construction phase in 2020; however, notes that the new baseline is considered to be the earliest possible technically achievable date;
5. Notes that in March 2017, the United Kingdom notified the Council of its decision to withdraw from the Union and from Euratom; notes with concern that this may have effects on the post-2020 activities of the Joint Undertaking and the ITER project;

⁽¹⁾ Council Decision 2007/198/Euratom of 27 March 2007 establishing a Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58).

6. Welcomes the fact that in April 2018 the Council mandated the Commission to approve the new ITER baseline on behalf of Euratom and reaffirmed the commitment to make resources available within the limits of the next Multiannual Financial Framework (MFF) without prejudice to any subsequent MFF negotiations, which will determine the details of the future funding ⁽²⁾;
7. Highlights the fact that in addition to the construction phase, the Joint Undertaking will have to contribute to the ITER operational phase after 2035 and to the subsequent ITER deactivation and decommissioning phases; takes note of the fact that the contribution to the deactivation and the decommissioning phases were estimated to be EUR 95 540 000 and EUR 180 200 000 respectively; notes that the ITER project will continue to operate until the expiry of the ITER Agreement in 2042 and that the Union will continue to contribute to the ITER costs until then; notes that these additional costs comprise the final year of cash contributions towards the operations and decommissioning phases and the full costs of the deactivation phase;
8. Notes that there remains a risk of further cost increases and delays in project implementation compared to the current approved baseline although positive steps have been taken to improve management and control of the Joint Undertaking's contribution to the project construction phase; calls on the Joint Undertaking not to exceed the current approved baseline for total costs of the project;
9. Notes that effective communication is an essential component of successful Union-financed projects; considers it to be important to increase the visibility of the achievements of the Joint Undertaking and to disseminate information on their added value; calls on the Joint Undertaking to pursue a proactive communication policy by disseminating the results of its research to the public, such as by means of social media or other media outlets, thus raising public awareness of the impact of Union support, with particular regard to market uptake;
10. Asks the Court to assess the soundness and reliability of the methodology for calculating and valuing in-kind contributions;

Budget and financial management

11. Notes that the final 2018 budget available for implementation included commitment appropriations of EUR 706 230 231 and payment appropriations of EUR 847 366 988; notes that the utilisation rates for commitment and payment appropriations were 98,4 % and 96,1 % respectively (compared to 99,9 % and 96,3% in 2017);
12. Notes that, due to shortcomings in the budget planning process in 2017, the payment appropriations needed in 2017 and 2018 exceeded the payment appropriations of the initial budget; observes that the additional payment appropriations needed by the Joint Undertaking amounted to EUR 160 700 000, 25 % above the initial budget; takes note of the Joint Undertaking's reply which states that the Joint Undertaking is grateful to Euratom for the additional contribution to the 2018 budget and that the Joint Undertaking would like to report that the lack of payment appropriations would have had no impact or risk, as EUR 137 000 000 were paid to the ITER Organization as advance on the 2019 in-cash contribution; notes that the payment forecasting system has been totally redesigned and integrated in the new financial management tool, and that this, together with the new organisational structure, ensures that correct budgetary planning is in place and has already been used to determine the revenue of the 2019 budget;
13. Welcomes the fact that out of EUR 706 200 000 available for commitment appropriations, 98,4 % was implemented through direct individual commitments (compared to 96,5 % in 2017);
14. Notes that in 2018 the balance of the budget outturn amounted to EUR 1 316 734 (compared to EUR 17 236 192 in 2017);

⁽²⁾ Council of the European Union 7881/18 adopted on 12 April 2018.

15. Observes that in 2018 the Joint Undertaking made a regularisation payment transferring EUR 1 000 000 of authorised and verified payments relating to staff duty travel costs from the administrative budget to the operational budget; notes, however, the budget principle of specification was not respected by the regularisation payment; takes note of the Joint Undertaking's reply which states that it considers that the payment of regularisation implemented for a global amount and undifferentiated items was not the optimum tool for the assignment of expenditure due to its perceived lack of transparency; however, expects the improvements that were achieved by the Joint Undertaking's commercial department in the course of 2019 to be confirmed by the Court in its annual report for 2019;
16. Notes that in 2018 the Joint Undertaking achieved six of the milestones established by the ITER Council and governing board for that year, with a scheduled performance index of 93 % (compared to 91 % in 2017, 70 % in 2016 and 75 % in 2015); notes also the announcement of the ITER Organization in December 2018 confirming that 60 % of total scheduled construction work for the 2025 first plasma (compared to 50 % in 2017) had been completed;

Performance

17. Notes from the Court's report that the director's decision to change the place of employment of a newly recruited senior manager from Barcelona to Cadarache was not supported by adequate documentation to justify the additional salary costs due to the different correction coefficient; welcomes the fact that the Joint Undertaking recognises in its reply that the change of the place of employment was not adequately documented, as it was within the power of the appointing authority; observes that the Joint Undertaking was facing some risks in the poloidal field (PF) coils project that required attention from a senior manager; notes that the director therefore decided to ask the candidate to start in Cadarache immediately in order to fully focus on the PF crisis;
18. Notes with satisfaction that the Joint Undertaking has implemented the earned value management instead of the ITER credit system to monitor the project progress based on the ad-hoc group proposal, the results of which are now being routinely submitted;
19. Notes the progress on the ITER construction regarding the completion of the huge bio-shield encircling the tokamak pit and the instalment of the first components in the tokamak complex;

Prevention and management of conflicts of interest and transparency

20. Notes that in 2017 the Joint Undertaking's governing board continued implementing the public procurement part of the anti-fraud strategy; notes that the Joint Undertaking adopted a checklist based in its own set of procurement fraud risk indicators, namely, red flags, considered a prerequisite to the development of the anti-fraud IT tool, having developed them internally; acknowledges that the anti-fraud and ethics officer continued coordinating the implementation of Joint Undertaking's anti-fraud strategy in close cooperation with all respective units and notes with appreciation that a working group had continued to develop the anti-fraud Strategy at the end of 2018;

Staff and recruitment

21. Notes that significant shortcomings were found by the Court in relation to the recruitment of key management staff; takes note of the fact that in its reply, the Joint Undertaking's states that following the Court finding and using the six sigma methodology to analyse, identify and implement the enhancements, the Joint Undertaking enhanced the robustness of its selection process as well as the additional ongoing measures; asks the Joint Undertaking to avoid any future irregularities and shortcomings;
22. Notes that, at the end of 2018, the Joint Undertaking had 162 women and 284 men on its establishment plan, with men occupying the majority of posts in three out of the five staff categories, while over 50 % of Union contract agents and officials in assistant posts are women; notes also that 22 Member States were represented among the Joint Undertaking's staff, that most members of staff came from three Member States, and that four members of staff each came from a further four Member States; urges the Joint Undertaking to seek a more balanced geographical representation, while acknowledging that this depends on applicants for vacancies and those responding to requests for expression of interest;

Internal control

23. Notes that the Joint Undertaking has not consistently followed up on the declarations of interests from senior management; notes with appreciation that the Joint Undertaking has elaborated and put in place some documents with regard to the management of general declaration of interest of all managers and in accordance with Article 13 of the Joint Undertaking's conflicts of interests rules; furthermore, observes that in January 2019 the ethics officer gave a presentation session on this topic to all managers;
24. Observes that on 25 January 2018, the General Court delivered its judgement annulling the results of the selection procedure including the decisions to appoint successful candidates from the reserve lists of selection procedure; notes that although the Advocate General's opinion on 29 January 2019 supported the Joint Undertaking's appeal to the Court of Justice of the European Union (Court of Justice) in April 2018 and suggested that the Court of Justice overturn the General Court's judgement with regard to the annulment of decisions to appoint successful candidates but not the reserve list, the Court of Justice upheld the General Court's judgment ⁽³⁾; asks the Joint Undertaking to comply with the rules of the selection procedure in order to avoid any future litigation;
25. Notes that shortcomings in the internal communication strategies did not ensure the dissemination of appropriate information on the estimated costs of the decommissioning phase within the organisation and, therefore, the Joint Undertaking disclosed no provision for such liability in the accounts of the previous years, which have been estimated in EUR 85 200 000; however, welcomes the Joint Undertaking's reply that the shortcomings have been already addressed by two actions; that the senior management transmits to the accounting officer any relevant information and that the internal process 'PM-76 Annual Accounts-opening/closure of financial year' was updated in May 2019;

Operational procurement and grants

26. Notes that during 2018, 55 operational procurement procedures were launched, and 69 operational procurement contracts were signed, while one grant procedure was launched and two were signed.

⁽³⁾ Judgment of the Court of Justice of 8 May 2019, *European Joint Undertaking for ITER and the Development of Fusion Energy v Yosu Galocha*, C-243/18 P ECLI:EU:C:2019:378.