



EUROPEAN
COMMISSION

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Recommendation for a

COUNCIL DECISION

**concerning accession of the European Atomic Energy Community (Euratom) to the new
Framework Agreement for international collaboration on research and development of
Generation IV Nuclear Energy Systems**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Generation IV International Forum (GIF) is a framework for international cooperation in research and development (R&D) launched at the initiative of the United States of America (USA) in 2001. The objective is to pool efforts to develop new nuclear energy system designs, which will provide a reliable supply of energy, while satisfactorily addressing nuclear safety, waste minimisation, non-proliferation and public concerns.

On 30 July 2003, by Commission Decision C(2002) 4287, Euratom joined the GIF initiative by signing its Charter ('the Charter'), which the initial signatories had signed in 2001. The participation of Euratom in the Charter was extended following Commission Decision C(2011)4504 of 29 June 2011. On that occasion, the initial 10-year duration period was changed to an unlimited period, unless discontinued by unanimous consent or in the event of one signatory's withdrawal. The Charter bears no provision for financial exchanges or special budgetary allocations between the Parties.

To implement the Charter, most GIF members entered into a legally binding 'Framework Agreement for international collaboration on research and development of Generation IV Nuclear Energy Systems' ('the 2005 Framework Agreement'), setting out the conditions for cooperation to be further detailed in subsequent instruments called System Arrangements and Project Arrangements. Euratom acceded to the 2005 Framework Agreement by deposit of an instrument of accession with the Nuclear Energy Agency (NEA) of the Organisation for Economic Cooperation and Development in Paris on 10 February 2006¹. Euratom confirmed its Joint Research Centre (JRC) as its Implementing Agent to coordinate Euratom participation in GIF, in line with Article III.2 of the 2005 Framework Agreement. Through Euratom's accession to the 2005 Framework Agreement, any Member State, its public or private research organisations or its industry could channel direct contributions to GIF R&D projects.

The 2005 Framework Agreement entered into force on 28 February 2005 for a period of 10 years and was extended on 26 February 2015 for a further 10 years. The extension was signed by Euratom on 16 November 2016². Under the extension agreement, Parties that were unable to sign the extension by 28 February 2015 could still collaborate under the System and Project Arrangements on a transitional basis.

France and the United Kingdom (UK) had already signed the 2005 Framework Agreement prior to Euratom accession (while France had completed its accession procedures, the UK had not). To ensure consistency, the following declaration by Euratom was attached to Council Decision 14929/05, approving Euratom's initial accession to the Agreement:

'In becoming a Party to this Framework Agreement, Euratom shall fully participate in all collaboration and deliberations under this Framework Agreement and any System Arrangement to which it is a signatory. Euratom and its Member States parties to the Framework Agreement – currently, France and the UK – will harmonise their positions before any significant decision is taken in the implementation of the Framework Agreement and the relevant System Arrangements'.

¹ Commission Decision C(2006)7 of 12.01.2006, based on Council Decision 14929/05 of 20.12.2005.

² Commission Decision C(2016) 3772 final.

This same declaration was transmitted with Euratom's instrument of accession to the 2005 Agreement.

After the UK's withdrawal from the European Union and the European Atomic Energy Community, it became a Party to the Framework Agreement in its own right by ratification in October 2018.

Current Parties to the 2005 Framework Agreement are: Australia, Canada, China, France, Euratom, Japan, the Republic of Korea, the Russian Federation, South Africa, Switzerland, the UK and the USA. Argentina and Brazil also signed the Charter but did not accede to the 2005 Framework Agreement; they are considered as 'non-active members' of GIF.

The 2005 Framework Agreement will expire on 28 February 2025. In early 2023, a number of GIF members raised concerns that the current framework would not be appropriate for the future, in particular due to the geopolitical situation following Russia's war of aggression against Ukraine, preventing fruitful collaboration with one of the current Parties to the 2005 Framework Agreement. At the GIF Policy Group meeting of April 2023, the Policy Group entrusted its Chair to develop options other than extension by way of amendment, to address these concerns. The Depositary of the Framework Agreement (NEA/OECD) informed the Party concerned (the Russian Federation) of the other Parties' intention not to pursue future collaboration with it.

The GIF Policy Group Chair (USA for the period 2022-2024) worked with the Vice Chairs (respectively Canada, France, Japan and the Republic of Korea), the Technical Director (post held by the USA) and the Policy Director (post held by the UK) and drew up a plan to pursue cooperation initiated under the Charter under a new Framework Agreement, to be signed by the mutually willing Parties to the 2005 Framework Agreement.

The plan proposed by the Policy Group to ensure the continuity of the work currently carried out by the mutually willing GIF members provides for a new Framework Agreement, which will enter into force immediately after the termination of the one currently in force, while still pursuing the same scientific and technical objectives.

The negotiations and discussions on the draft text of the new GIF Framework Agreement, which should enter into force on 1 March 2025, were started at the initiative of the GIF Policy Group Chair. Negotiation rounds were held in person and online between January and April 2024, involving all current Parties (represented by their Implementing Agents), except the Russian Federation, China and South Africa (although these last two were invited). The sole purpose of the new Framework Agreement is to create a legally binding framework to allow R&D work at project level.

In view of the limited time frame for the preparatory discussions leading to the opening of negotiations (from December 2023 to January 2024), the JRC participated as the Implementing Agent and the Euratom representative in the Policy Group and not as the mandated Euratom representative in the negotiation of the new Framework Agreement.

The Australian Implementing Agent declared itself to be in the same situation as Euratom.

Both Australia's and Euratom's Implementing Agents were invited to the negotiation rounds as observers. They were therefore allowed to make observations and take part in the discussions, but not propose modifications or new text to the new Framework Agreement. To this end, Euratom coordinated with France, represented by its Implementing Agent, the

Alternative Energies and Atomic Energy Commission (CEA), mandated by the French Government to negotiate for France.

The negotiations centred on three main substantive issues.

i) A mechanism to pursue the same research collaboration initiated under the 2005 Framework Agreement under a renewed instrument ('the 2025 Framework Agreement'), which would be open for signature to all current Parties but one (the Russian Federation).

ii) A mechanism taking into account the different timing of the Parties' internal ratification and acceptance procedures (in particular Euratom's) for becoming Parties to the new instrument. This would ensure that the new instrument would not be open to any new accession for an initial period (set as three years by Article XIV of the draft 2025 Framework Agreement), during which time the current Parties would be able to complete their accession procedures.

iii) A mechanism that would secure technical continuity of the activities initiated under the Charter and the 2005 Framework Agreement without re-opening the discussions on which entities (in particular Implementing Agents) would be eligible to join the new instrument and all the sub-agreements under international private law that would be renewed on its basis.

Through its Implementing Agent, the Commission was able to make observations, discuss relevant issues with mandated Implementing Agents and ensure that no new substantive provisions were introduced. The wording of the 2025 Framework Agreement is aimed at securing its main objectives: to develop concepts for one or more Generation IV Systems and to prevent unwanted or unverified entities from entering into the GIF.

The delegations paid due attention to Euratom participation and France's mandated Implementing Agent coordinated with Euratom throughout the negotiations.

The Commission considered that the proposed renewal of the 2005 Framework Agreement would be acceptable for Euratom and therefore decided to submit it to the Council in accordance with the second paragraph of Article 101 of the Euratom Treaty.

The proposed accession to the 2025 Framework Agreement would have no financial consequences for the EU budget. Activities under the 2025 Framework Agreement would be financed under the Euratom Framework Programmes for Research and Training.

To ensure the continuity of the research projects conducted under the 2005 Framework Agreement and in which the Commission's JRC and Member States' research organisations participate, it is proposed that the Commission conclude Euratom's accession to the 2025 Framework Agreement on its behalf.

- **Consistency with existing policy provisions in the policy area**

The Euratom Research and Training Programme (2021-2025) covers nuclear research and innovation, and it is a complementary funding programme to Horizon Europe. The JRC's participation in GIF as Euratom's Implementing Agent is explicitly mandated in the Euratom Research and Training Programme (see paragraph 2 below on Subsidiarity).

- **Consistency with other Union policies**

See next bullet point.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 101, second paragraph, of the Treaty establishing the European Atomic Energy Community.

Although the participation in GIF projects will be financed from the existing EU budget under the Euratom Framework Programme for research, becoming Party to the 2025 Framework Agreement requires the Council's endorsement because it is an international agreement to which Euratom will accede.

- **Subsidiarity (for non-exclusive competence)**

The Annex to Council Regulation (Euratom) 2021/765 of 10 May 2021 establishing the Research and Training Programme of the European Atomic Energy Community for 2021-2025, complementing Horizon Europe – the Framework Programme for Research and Innovation and repealing Regulation (Euratom) 2018/1563³, explicitly states that:

‘Activities listed in this Annex include international cooperation in nuclear research and innovation for peaceful uses, based on shared goals and mutual trust with the aim of providing clear and significant benefits for the Union, its citizens and environment. This includes international cooperation through multilateral frameworks. The JRC, as the formally recognised Euratom Implementing Agent for Generation IV International Forum (GIF), will continue facilitating and coordinating the contribution and participation of the Euratom Community in GIF's research and training activities. The contribution to GIF's activities under the scope of the Euratom Programme is focused on safety, radiation protection, safeguards and non-proliferation research and training activities specific to Generation IV Systems’.

- **Proportionality**

N/A

- **Choice of the instrument**

The accession to the Framework Agreement requires the Council's endorsement under the second paragraph of Article 101 of the Euratom Treaty.

3. RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- ***Ex post* evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

- **Collection and use of expertise**

N/A

- **Impact assessment**

N/A

³ OJ L 167 I of 12.5.2021 (p.81).

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

Research under the 2025 Framework Agreement will be funded by the Euratom Research and Training Programme budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Euratom participation in GIF comes under the activities of the Euratom Research and Training Programme. Annex II to Council Regulation (Euratom) 2021/765 sets the impact pathways and related key impact pathway indicators that will structure how the performance of the Euratom Research and Training Programme is monitored in terms of achieving its specific objectives.

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

Articles I, II and III of the 2025 Framework Agreement are the same as the corresponding articles of the 2005 Framework Agreement, except for some minor amendments to the wording.

Articles VI, VII and X of the 2025 Framework Agreement are identical to the corresponding articles of the 2005 Framework Agreement.

The wording of Article IX was amended slightly. A point b) has been added to Article IX of the 2025 Framework Agreement, which allows the scientific and technological information to be made available to the public in line with each Party's applicable laws.

Article XI of the 2025 Framework Agreement is identical to Article XI of the 2005 Framework Agreement except for some very minor changes.

Article XIII was reworded for the sake of clarity.

Articles IV, V, XII, XIV and XV are new, in that they introduce the mechanisms needed for the intended purpose of the 2025 Framework Agreement.

In detail:

Relation to the Charter

The title of the new instrument remains unchanged: 'Framework Agreement for International Collaboration on Research and Development of Generation IV Nuclear Energy Systems' (Enclosure 4). The recitals make clear however that this is a new instrument.

The recitals refer to the 2005 Framework Agreement using the present-tense wording ‘which expires on 28 February 2025’. This is because the first three signatories intend to sign the renewed Agreement before the 2005 Agreement expires. However, the entry into force of the 2025 Framework Agreement will only be set at the earliest on 1 March 2025.

Discussions were held during the negotiations on whether renewing the Framework Agreement could be seen as a novation. This is a concept mainly applied in contract law rather than in international law. Novation transfers the rights and obligations under a contract to a different Party. In this case, some of the initial Parties do not want to continue collaborating with one initial Party. There is no transfer of rights and obligations; rather some of the initial Parties are opting not to renew the initial instrument by way of an amendment and instead are entering into a new agreement, with a reduced number of Parties. This is therefore considered simply to be a new Framework Agreement, beginning (immediately) after the expiry of the old Framework Agreement.

Since the GIF charter is a political instrument with no end date, encouraging the Parties intending to sign the 2025 Framework Agreement to withdraw from the 2005 Framework Agreement was deemed a risk. Some Parties (not invited or not intending to sign the new Framework Agreement) might have remained in the Charter and established a parallel GIF structure. For this reason, the 2025 Framework Agreement decouples from the Charter as a political commitment but maintains its historical value. To do this, the GIF governance structure had to be re-established in the 2025 Framework Agreement, since the 2005 Framework Agreement relied on the Charter’s governance structure, as reflected in Article IV of the 2025 Framework Agreement.

Most importantly, Article IV provides the foundation for the seamless continuation of GIF activities by the invited entities (‘a State or an international organization identified in Annex C to this Framework Agreement’) for a period of three years, in order to allow for lengthier or more complex ratification/conclusion procedures, as in the case of Euratom.

Importance and role of Annex C

The list of States and international organisations and their expected Implementing Agents in Annex C ensures that no unwanted or unverified entity (State or Implementing Agent) can sign either the Framework Agreement or any of the renewed Systems and Project Arrangements. The relevant provisions are laid down in Article V (in particular par. 8 as concerns entities that are not yet signatories) and Article XII (whereby only entities listed in Annex C can sign or accede to the new Framework Agreement). In particular, the mechanism laid down in Article XII(4)(b) aims to ensure that no state admitted to sign the Framework Agreement can propose a potentially unwanted entity (e.g. a private company under its jurisdiction) as its Implementing Agent. Should a signatory state or international organisation propose an entity not identified as an ‘expected Implementing Agent’ in Annex C, the other Parties will have a 90-day period in which to object to the proposal.

Similarly, under Article XII(4)(a), the initial signatories (three are necessary for the Agreement’s entry into force) may only designate as Implementing Agents the entities listed as ‘expected Implementing Agents’ in Annex C.

This was necessary to avoid any interference from Parties that are invited to sign the Agreement but have not participated in its negotiation and may not necessarily be aligned with the common intent of the Parties that did take part in the negotiations.

Article XV (Continuation of collaboration). ensures the seamless continuity of the current technical activities initiated under System Arrangement and Project Arrangements. This Article provides on the one hand for a full interruption or ‘clean break’ of all current 2005 Framework Agreement’s System and Project Arrangements. Collaboration will not be pursued under the 2005 Framework Agreement; rather it will be continued under the new 2025 Framework Agreement through renewed System Arrangements and Project Arrangements (pursuant to Article V of the 2025 Framework Agreement). On the other hand, and this is an important point for Euratom, such collaboration can be continued with entities of States or international organisations listed in Annex C that are not yet a Party to the 2025 Framework Agreement. This provision – together with the possibility to be invited to the Policy Group and other meetings – gives the Parties sufficient time to complete their accession procedures.

It should be noted that Project Arrangements are open to any private entities (even private entities not under the jurisdiction of any of the Parties). However, such participation is subject to the approval of the Parties represented in the Policy Group, as laid down in Article V(7)(b).

The GIF collaboration structure has two Memoranda of Understanding (MoUs), addressing collaboration in two GIF systems for which System Arrangements have not yet been concluded. These MoUs have no end date, therefore, all the Implementing Agents must withdraw from the MoUs listed in Annex B, and are encouraged to conclude new MoUs under the new Framework Agreement to achieve the objective of collaborating with mutually willing parties, (in line with Article V(1)(b) and (c) and Article V(11).

Euratom will not be able to accede to System Arrangements or MoUs (the signature of which is reserved for Implementing Agents) until it accedes to the 2025 Framework Agreement, but it will be able to pursue activities in relation to each Project Arrangement listed in Annex B.

Original languages

The Agreement is produced as a single original, in the English and French languages, with each text being equally authentic. The governments of Canada and France have revised the French translation (Enclosure 5).

COUNCIL DECISION

concerning accession of the European Atomic Energy Community (Euratom) to the new Framework Agreement for international collaboration on research and development of Generation IV Nuclear Energy Systems

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community (hereinafter Euratom), and in particular the second paragraph of Article 101 thereof,

Whereas:

- (1) Argentina, Brazil, Canada, France, Japan, the Republic of Korea, South Africa, the United States of America, and the United Kingdom initiated the Generation IV International Forum (GIF) as a co-operative international endeavour to carry out the research and development (R&D) necessary to test the feasibility and performance of fourth generation nuclear systems, and to make them available for industrial deployment by 2030;
- (2) Subsequently, the GIF Charter was signed by Switzerland in 2002, and the People's Republic of China and the Russian Federation in 2006;
- (3) Euratom acceded to GIF on 30 July 2003 by signing the GIF Charter;
- (4) The international cooperation and exchange in the nuclear-related technology R&D envisaged under the GIF needed a legal framework that provided legal security to the participants, in particular in view of the protection of the rights generated through the research work, such as intellectual property rights;
- (5) To this end, the GIF Parties agreed on a Framework Agreement setting the conditions for cooperation and for subsequent system and project arrangements, to which Euratom acceded in 2006;
- (6) In 2015, the Framework Agreement was extended for another 10-year period and will expire on 28 February 2025;
- (7) In order to ensure the continuity of the ongoing research projects and GIF activities, mutually willing States Party to the Framework Agreement negotiated a renewal of the Framework Agreement, in view of the current geopolitical situation;
- (8) The Euratom contribution to GIF R&D projects will remain within the scope of Council decisions on the Euratom Framework Research and Training Programme;
- (9) Any Member State, its public or private research organisations or its industry may channel its direct contribution to these R&D projects through Euratom's accession to the Framework Agreement;
- (10) The conclusion by the European Commission, on behalf of Euratom, of the new Framework Agreement should therefore be approved.

HAS ADOPTED THIS DECISION:

Sole Article

The conclusion by the European Commission, on behalf of Euratom, of the attached 'Framework Agreement for international collaboration on research and development of Generation IV Nuclear Energy Systems', is hereby approved.

Done at Brussels,

*For the Council
The President*