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From: Budget Committee

To: Permanent Representatives Committee/Council

Subject: Discharge to be given to the joint undertakings in respect of the
implementation of the budget for the financial year 2014
– *Draft Council recommendations*

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Draft COUNCIL RECOMMENDATION
of
on the discharge to be given to the Director
of the European Joint Undertaking for ITER and the Development of Fusion Energy
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 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

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 1605/2002¹, and in particular Article 208(2) 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 it², and in particular Article 5(3) thereof and Article 15(1) fourth subparagraph of the Annex thereto,

Having regard to the Financial Regulation of the European Joint Undertaking for ITER and the Development of Fusion Energy adopted by its Governing Board on 22 October 2007,

¹ OJ L 298, 26.10.2012, p. 1.

² OJ L 90, 30.3.2007, p. 58.

Having examined the revenue and expenditure accounts for the financial year 2014 and the balance sheet as at 31 December 2014 of the European Joint Undertaking for ITER and the Development of Fusion Energy, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2014 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2014.

Done at Brussels,

For the Council
The President

¹ OJ C 422, 17.12.2015, p. 33.

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION
ON THE DISCHARGE TO BE GIVEN TO THE JOINT UNDERTAKING**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Regulation, and that the underlying transactions for 2014 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council notes with concern the Court's remarks about the significant risk of further increases in the cost of the ITER project, which has been estimated at EUR 428 million in November 2014. Taking into account that the Council, in its conclusions of 7 July 2010, agreed to finance the construction phase of the ITER project with up to EUR 6.6 billion, the Council calls on the Joint Undertaking to urgently establish the central and uniform system to integrate all the operational data and to allow regular monitoring and controlling of estimates that the Joint Undertaking is working on.

The Council, following the Court's observations, reiterates its call on the Joint Undertaking to show the degree of advancement of the work in progress in its financial statements in order to appropriately reflect the status and value of the activities carried out by the Joint Undertaking so far.

The Council notes with regret the low implementation rate for payment appropriations and calls on the Joint Undertaking to further improve its financial programming and monitoring of the budget implementation. Even though the Council recognises the multiannual nature of the Joint Undertaking's activities and the important slippage of the entire ITER project, it maintains that it is of utmost importance to respect budgetary principles, such as the principle of annuality and to reduce the level of carry-overs to the strict minimum.

The Council welcomes the progress made with regard to the Joint Undertaking's supervisory and control systems. However, it notes that weaknesses still persist as regards the monitoring and control of cost estimates and the degree of implementation of activities, the follow-up of internal audit recommendations, the monitoring and follow-up of contract implementation in the area of ITER buildings, the managing of risks related to contract management and delays in addressing the risks identified by the Fusion for Energy internal risk management system. The Council, therefore, urgently calls on the Joint Undertaking to continue following up the identified risks and improving its supervisory and control systems.

With regard to the procurement and grant award procedures, the Council regrets that again numerous weaknesses were detected by the Court. It, therefore, calls on the Joint Undertaking to maximise the competitiveness of its procurement procedures and grant contract management, to improve the information it provides on contract allocations in order to calculate cost deviations from the capped budget, to avoid deviations from the cost baselines identified, to more carefully assess financial offers, to respect the target dates for its procurement procedures and to improve its assessment of the scope of activities required and of the offers received under procurement procedures.

Furthermore, the Council invites the Joint Undertaking to follow thoroughly the Court's recommendations and to amend its financial rules to reflect the changes brought about by the new Framework Financial Regulation and to adopt the necessary rules for the proper implementation of Staff Regulations.

As regards the protection of intellectual property rights, the Council welcomes the fact that the Joint Undertaking has concluded contractual clauses ensuring that it maintains the right of access to the full intellectual property rights and that it remains able to transfer these rights, and it calls on the Joint Undertaking to ensure that those clauses are observed.

The Council finally encourages the Joint Undertaking to pursue its negotiations with the host Member State to conclude a Host State agreement.

Draft COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the SESAR Joint Undertaking
in respect of the implementation of the budget
of the SESAR Joint Undertaking
for the financial year 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

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 1605/2002¹, and in particular Article 208(2) thereof,

Having regard to Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)², and in particular Article 4b thereof,

Having regard to the Financial Rules of the SESAR Joint Undertaking adopted by its Administrative Board on 28 July 2009,

¹ OJ L 298, 26.10.2012, p. 1.

² OJ L 64, 2.3.2007, p. 1.

Having examined the revenue and expenditure accounts for the financial year 2014 and the balance sheet as at 31 December 2014 of the SESAR Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the Council welcomes the fact that the observations in the Court of Auditors' report in relation to the financial year 2014 do not call for any comments,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2014.

Done at Brussels,

For the Council

The President

¹ OJ C 422, 17.12.2015, p. 70.

Draft COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Clean Sky 2 Joint Undertaking
in respect of the implementation of the budget
of the Clean Sky Joint Undertaking and of the Clean Sky 2 Joint Undertaking
for the financial year 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 71/2008 of 20 December 2007 setting up the Clean Sky Joint Undertaking¹, and in particular Article 11(4) thereof,

Having regard to Council Regulation (EU) No 558/2014 of 6 May 2014 establishing the Clean Sky 2 Joint Undertaking², and in particular Articles 1(2) and 12 thereof,

Having regard to the Financial Rules of the Clean Sky Joint Undertaking adopted by its Governing Board on 7 November 2008,

Having regard to the Financial Rules of the Clean Sky 2 Joint Undertaking adopted by its Governing Board on 3 July 2014,

¹ OJ L 30, 4.2.2008, p. 1.

² OJ L 169, 7.6.2014, p. 77.

Having examined the revenue and expenditure accounts for the financial year 2014 and the balance sheet as at 31 December 2014 of the Clean Sky Joint Undertaking and the Clean Sky 2 Joint Undertaking hereinafter jointly referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas, in accordance with Article 1(2) of Council Regulation (EU) No 558/2014, the Clean Sky 2 Joint Undertaking, hereinafter referred to as the "successor Joint Undertaking", has replaced and succeeded the Clean Sky Joint Undertaking; whereas discharge should therefore be given to the Executive Director of the successor Joint Undertaking,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2014 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up by the successor Joint Undertaking,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the successor Joint Undertaking in respect of the implementation of the budget of the Joint Undertaking for the financial year 2014.

Done at Brussels,

For the Council

The President

¹ OJ C 422, 17.12.2015, p. 17.

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION
ON THE DISCHARGE TO BE GIVEN TO THE JOINT UNDERTAKING**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules , and that the underlying transactions for 2014 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council calls on the successor Joint Undertaking to pay due attention to proper financial programming and budget implementation in order to reduce the level of commitment appropriations carried over to the following financial year to the strict minimum, in line with the budgetary principle of annuality. It welcomes the improvements achieved so far in the overall implementation rates.

The Council invites the successor Joint Undertaking to implement improvements on the process of payments in order to avoid late payment penalties.

Finally, the Council also invites the successor Joint Undertaking to improve the monitoring and reporting of research results with a view to better integration of its research results into the overall reporting system of the Commission and their enhanced dissemination.

Draft COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Innovative Medicines Initiative 2 Joint Undertaking
in respect of the implementation of the budget
of the Innovative Medicines Initiative Joint Undertaking and
of the Innovative Medicines Initiative 2 Joint Undertaking
for the financial year 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 73/2008 of 20 December 2007 setting up the Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines¹, and in particular Article 11(4) thereof,

Having regard to Council Regulation (EU) No 557/2014 of 6 May 2014 establishing the Innovative Medicines Initiative 2 Joint Undertaking², and in particular Articles 1(2) and 12 thereof,

Having regard to the Financial Rules of the Innovative Medicines Initiative Joint Undertaking adopted by its Governing Board on 2 February 2009,

Having regard to the Financial Rules of the Innovative Medicines Initiative 2 Joint Undertaking adopted by its Governing Board on 7 July 2014,

¹ OJ L 30, 4.2.2008, p. 38.

² OJ L 169, 7.6.2014, p. 54.

Having examined the revenue and expenditure accounts for the financial year 2014 and the balance sheet as at 31 December 2014 of the Innovative Medicines Initiative Joint Undertaking and the Innovative Medicines Initiative 2 Joint Undertaking, hereinafter jointly referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas, in accordance with Article 1(2) of Council Regulation (EU) No 557/2014, the Innovative Medicines Initiative 2 Joint Undertaking, hereinafter referred to as "successor Joint Undertaking" has replaced and succeeded the Innovative Medicines Initiative Joint Undertaking; whereas discharge should therefore be given to the Executive Director of the successor Joint Undertaking,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2014 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up by the successor Joint Undertaking,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the successor Joint Undertaking in respect of the implementation of the budget of the Joint Undertaking for the financial year 2014.

Done at Brussels,

For the Council

The President

¹ OJ C 422, 17.12.2015, p. 61.

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION
ON THE DISCHARGE TO BE GIVEN TO THE JOINT UNDERTAKING**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2014 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council calls on the successor Joint Undertaking to pay due attention to proper financial programming and budget implementation in order to reduce the level of commitment appropriations carried over to the following financial year to the strict minimum, in line with the budgetary principle of annuality.

With regard to the key controls and supervisory systems, the Council regrets that weaknesses were identified by the Court. It calls on the successor Joint Undertaking to reinforce *ex-ante* controls on the payment of project costs.

Finally, the Council also invites the successor Joint Undertaking to improve the monitoring and reporting of research results by implementing the recommendations made by the Commission's Internal Audit Service.

Draft COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Fuel Cells and Hydrogen 2 Joint Undertaking
in respect of the implementation of the budget
of the Fuel Cells and Hydrogen Joint Undertaking
and of the Fuel Cells and Hydrogen 2 Joint Undertaking
for the financial year 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 521/2008 of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking¹, and in particular Article 11(4) thereof,

Having regard to Council Regulation (EU) No 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 Joint Undertaking², and in particular Articles 1(2) and 12 thereof,

Having regard to the Financial Rules of the Fuel Cells and Hydrogen Joint Undertaking adopted by its Governing Board on 26 September 2008,

Having regard to the Financial Rules of the Fuel Cells and Hydrogen 2 Joint Undertaking adopted by its Governing Board on 30 June 2014,

¹ OJ L 153, 12.6.2008, p. 1.

² OJ L 169, 7.6.2014, p. 108.

Having examined the revenue and expenditure accounts for the financial year 2014 and the balance sheet as at 31 December 2014 of the Fuel Cells and Hydrogen Joint Undertaking and the Fuel Cells and Hydrogen 2 Joint Undertaking, hereinafter jointly referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas, in accordance with Article 1(2) of Council Regulation (EU) No 559/2014, the Fuel Cells and Hydrogen 2 Joint Undertaking, hereinafter referred to as the "successor Joint Undertaking" has replaced and succeeded the Fuel Cells and Hydrogen Joint Undertaking; whereas discharge should therefore be given to the Executive Director of the successor Joint Undertaking,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2014 call for a comment by the Council, which is annexed to this recommendation; whereas the Council stresses the importance it attaches to this comment being followed up by the successor Joint Undertaking,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the successor Joint Undertaking in respect of the implementation of the budget of the Joint Undertaking for the financial year 2014.

Done at Brussels,

For the Council

The President

¹ OJ C 422, 17.12.2015, p. 51.

**COMMENT ACCOMPANYING THE COUNCIL RECOMMENDATION
ON THE DISCHARGE TO BE GIVEN TO THE JOINT UNDERTAKING**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2014 are legal and regular in all material respects. Nevertheless, one observation needs to be made.

As regards the Court's remarks on the monitoring and reporting of project research results, the Council takes note of the recommendation to improve the reporting and dissemination of research results and calls on the successor Joint Undertaking to enhance its cooperation with the Commission in this regard.

Draft
COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the ECSEL Joint Undertaking
in respect of the implementation of the budget
of the ARTEMIS Joint Undertaking
for the period from 1 January 2014 to 26 June 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 74/2008 of 20 December 2007 on the establishment of the 'ARTEMIS Joint Undertaking' to implement a Joint Technology Initiative in Embedded Computing Systems¹, and in particular Article 11(4) thereof,

Having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking², and in particular Article 12 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 1605/2012³, and in particular Article 208(2) thereof,

Having regard to the Financial Rules of the ARTEMIS Joint Undertaking adopted by its Governing Board on 18 December 2008,

¹ OJ L 30, 4.2.2008, p. 52.

² OJ L 169, 7.6.2014, p.152.

³ OJ L 298, 26.10.2012, p. 1.

Having regard to the Financial Rules of the ECSEL Joint Undertaking adopted by its Governing Board on 3 July 2014,

Having examined the revenue and expenditure accounts for the period 1 January 2014 to 26 June 2014 and the balance sheet as at 26 June 2014 of the ARTEMIS Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the period 1 January 2014 to 26 June 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas in accordance with Article 1(2) of Council Regulation (EU) No 561/2013, the ECSEL Joint Undertaking, hereinafter referred to as the "ECSEL Joint Undertaking", has replaced and succeeded the Joint Undertaking; whereas discharge should therefore be given to the Executive Director of the ECSEL Joint Undertaking,

Whereas the observations in the Court of Auditors' report in relation to the period 1 January 2014 to 26 June 2014 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to those comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given to in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the ECSEL Joint Undertaking in respect of the implementation of the budget of the Joint Undertaking for the period 1 January 2014 to 26 June 2014.

Done at Brussels,

For the Council
The President

¹ OJ C 422, 17.12.2015, p. 9.

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION
ON THE DISCHARGE TO BE GIVEN TO THE JOINT UNDERTAKING**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 26 June 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for the period 1 January 2014 to 26 June 2014 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets, however, the Court's qualified opinion on the legality and regularity of transactions underlying the accounts of the Joint Undertaking. In the Court's assessment, the Joint Undertaking's *ex-post* audit strategy does not provide sufficient assurance that this key control tool is functioning effectively. Even though the National Funding Authorities (NFAs), are responsible for *ex-post* audits, the Joint Undertaking did not assess the quality of those audits nor was reliable information provided to enable the calculation of an error rate. The Council calls on the ECSEL Joint Undertaking, as the successor Joint Undertaking, to ensure that the future audit strategies address these shortcomings.

The Council takes note of the Court's observation concerning the low implementation rate of the administrative commitment appropriations due to the merger with the ENIAC Joint Undertaking that took place in June 2014.

The Council also notes that the new provisions of the Financial Regulation were implemented with a delay and that the Joint Undertaking's Financial Rules were not modified due to the merger that took place in June 2014.

The Council also regrets that at the time of the merger, the internal audit capability had not yet been set up and that the Joint Undertaking's Financial Rules were not brought in line with the provisions of the Financial Regulation as regards the powers of the Commission's Internal Auditor.

Draft COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the ECSEL Joint Undertaking
in respect of the implementation of the budget
of the ENIAC Joint Undertaking
for the period from 1 January 2014 to 26 June 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking¹, and in particular Article 11(4) thereof,

Having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking², and in particular Article 12 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 1605/2012³, and in particular Article 208(2) thereof,

Having regard to the Financial Rules of the ENIAC Joint Undertaking adopted by its Governing Board on 30 May 2008,

Having regard to the Financial Rules of the ECSEL Joint Undertaking adopted by its Governing Board on 3 July 2014,

¹ OJ L 30, 4.2.2008, p. 21.

² OJ L 169, 7.6.2014, p.152.

³ OJ L 298, 26.10.2012, p. 1.

Having examined the revenue and expenditure accounts for the period 1 January 2014 to 26 June 2014 and the balance sheet as at 26 June 2014 of the ENIAC Joint Undertaking, hereinafter referred to as the "Joint Undertaking", and the report by the Court of Auditors on the annual accounts of the Joint Undertaking for the period 1 January 2014 to 26 June 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas in accordance with Article 1(2) of Council Regulation (EU) No 561/2013, the ECSEL Joint Undertaking, hereinafter referred to as the "ECSEL Joint Undertaking", has replaced and succeeded the Joint Undertaking; whereas discharge should therefore be given to the Executive Director of the ECSEL Joint Undertaking,

Whereas the observations in the Court of Auditors' report in relation to the period 1 January 2014 to 26 June 2014 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the ECSEL Joint Undertaking in respect of the implementation of the budget of the Joint Undertaking for the period 1 January 2014 to 26 June 2014.

Done at Brussels,

For the Council

The President

¹ OJ C 422, 17.12.2015, p. 25.

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION
ON THE DISCHARGE TO BE GIVEN TO THE JOINT UNDERTAKING**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 26 June 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for the period 1 January 2014 to 26 June 2014 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets, however, the Court's qualified opinion on the legality and regularity of the transactions underlying the accounts of the Joint Undertaking. In the Court's assessment, the Joint Undertaking's *ex-post* audit strategy does not provide sufficient assurance that this key control tool is functioning effectively. Even though the National Funding Authorities (NFAs), are responsible for *ex-post* audits, the Joint Undertaking did not assess the quality of those audits nor was reliable information provided to enable the calculation of an error rate. The Council calls on the ECSEL Joint Undertaking, as the successor Joint Undertaking, to ensure that the future audit strategies address these shortcomings.

The Council takes note of the Court's observation concerning the low implementation rate of the administrative commitment appropriations due to the merger with the ARTEMIS Joint Undertaking that took place in June 2014.

The Council also notes the late implementation of the new provisions of the Financial Regulation and the lack of amendment of the Joint Undertaking's Financial Rules due to the merger that took place in June 2014.

Draft COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the ECSEL Joint Undertaking
in respect of the implementation of the budget
of the ECSEL Joint Undertaking
for the period from 27 June 2014 to 31 December 2014

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking¹, and in particular Article 12 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 1605/2012², and in particular Article 208(2) thereof,

Having regard to the Financial Rules of the ECSEL Joint Undertaking adopted by its Governing Board on 3 July 2014,

¹ OJ L 169, 7.6.2014, p.152.

² OJ L 298, 26.10.2012, p. 1.

Having examined the revenue and expenditure accounts for the period 27 June 2014 to 31 December 2014 and the balance sheet as at 31 December 2014 of the ECSEL Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the period 27 June 2014 to 31 December 2014, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the period 27 June 2014 to 31 December 2014 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the period 27 June 2014 to 31 December 2014.

Done at Brussels,

For the Council

The President

¹ OJ C 422, 17.12.2015, p. 80

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION
ON THE DISCHARGE TO BE GIVEN TO THE JOINT UNDERTAKING**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2014 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for the period 27 June 2014 to 31 December 2014 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets, however, the Court's qualified opinion on the legality and regularity of the transactions underlying the accounts of the Joint Undertaking. In the Court's assessment, the Joint Undertaking's *ex-post* audit strategy does not provide sufficient assurance that this key control tool is functioning effectively. The Council notes that the National Funding Authorities (NFAs), are responsible for ex-posts audits, and that the ARTEMIS and ENIAC Joint Undertakings, the Joint Undertaking's predecessors, had concluded administrative agreements with the NFAs of the Member States, which continue to apply after the merger of the ARTEMIS and ENIAC Joint Undertakings into the ECSEL Joint Undertaking. The Council regrets, that the Joint Undertaking did not assess the quality of audits provided by NFAs and that no reliable information was provided to enable the calculation of an error rate. The Council urges the Joint Undertaking to examine the audit strategies of the National Funding Authorities (NFAs), to ensure that all NFAs deliver their audit reports on time, and that they include all relevant information for the ex-post audit strategy to function effectively.

The Council takes note of the Court's observation concerning the low implementation rate of the administrative commitment appropriations due to the merger that took place in June 2014 and calls on the Joint Undertaking to pay due attention to its monitoring of budget implementation.

Finally, following the Court's observation, the Council calls on the Joint Undertaking to improve the quality of its monitoring of research results and the dissemination of qualitative data including information on progress made against performance indicators. It also calls on the Joint Undertaking to enhance its cooperation with the Commission with a view to improving the dissemination of research results.
