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From: Budget Committee
To: Permanent Representatives Committee/Council

Subject: Council recommendations on the discharge to be given to the joint undertakings in respect of the implementation of the budget for the financial year 2016
– *Adoption*

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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 2016

THE COUNCIL OF THE EUROPEAN UNION,

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

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 it¹, and in particular Article 5(3) thereof and the fourth subparagraph of Article 15(1) of the Annex thereto,

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 1605/2002², and in particular Article 208(2) thereof,

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 90, 30.3.2007, p. 58.

² OJ L 298, 26.10.2012, p. 1.

Having examined the revenue and expenditure accounts for the financial year 2016 and the balance sheet as at 31 December 2016 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 2016, 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 2016 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 2016.

Done at Brussels,

For the Council

The President

¹ OJ C 426, 12.12.2017, p. 31.

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION ON THE
DISCHARGE TO BE GIVEN TO THE EUROPEAN JOINT UNDERTAKING FOR ITER
AND THE DEVELOPMENT OF FUSION ENERGY**

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 2016 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 2016 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council is concerned about the risk of further cost increases and delays in project implementation compared to the new baseline proposed in 2016. The Council requests the Joint Undertaking to update the valuation of its contribution to the ITER project beyond the construction phase and to present it with the least possible delay.

The Council welcomes the progress achieved by the Joint Undertaking with regard to the establishment and implementation of its internal control systems. However, the Council expects the Joint Undertaking to continue its efforts in improving its procurement procedures as recommended by its Internal Audit Capability.

Finally, the Council invites the Joint Undertaking to follow-up the Court's recommendation on anti-fraud strategy and to set up a tool to facilitate the monitoring of its actions in relation to procurement procedures.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Single European Sky Air Traffic Management Research (SESAR) Joint Undertaking
in respect of the implementation of the budget
of the SESAR Joint Undertaking
for the financial year 2016

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 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)¹, and in particular Article 4b 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 1605/2002², and in particular Article 208(2) thereof,

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

¹ OJ L 64, 2.3.2007, p. 1.

² OJ L 298, 26.10.2012, p. 1.

Having examined the revenue and expenditure accounts for the financial year 2016 and the balance sheet as at 31 December 2016 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 2016, 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 2016 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 financial year 2016.

Done at Brussels,

For the Council

The President

¹ OJ C 426, 12.12.2017, p. 56.

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION ON THE
DISCHARGE TO BE GIVEN TO THE SINGLE EUROPEAN SKY AIR TRAFFIC
MANAGEMENT RESEARCH (SESAR) 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 2016 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 2016 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council encourages the Joint Undertaking to develop without delay the Terms of Reference and a model certificate to validate the members' in-kind contributions to the projects.

The Council invites the Joint Undertaking to establish a systematic internal procedure for reassessing weak financial viability of grant process coordinators, including measures for mitigating and compensating increased financial risk.

The Council calls on the Joint Undertaking to ensure cost-effectiveness in the procedures for the procurement of services based on a reasonable market price reference system.

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 2 Joint Undertaking
for the financial year 2016

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 558/2014 of 6 May 2014 establishing the Clean Sky 2 Joint Undertaking¹, and in particular Article 12 thereof,

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

Having examined the revenue and expenditure accounts for the financial year 2016 and the balance sheet as at 31 December 2016 of the Clean Sky 2 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 2016, accompanied by the Joint Undertaking's replies to the Court's observations²,

¹ OJ L 169, 7.6.2014, p. 77.

² OJ C 426, 12.12.2017, p. 15.

Whereas the observations in the Court of Auditors' report in relation to the financial year 2016 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 financial year 2016.

Done at Brussels,

For the Council
The President

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION ON THE
DISCHARGE TO BE GIVEN TO THE CLEAN SKY 2 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 2016 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 2016 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council encourages the Joint Undertaking to complete without delay the integration of its control systems with the Commission's common Horizon 2020 grant management and monitoring tools.

The Council invites the Joint Undertaking to regularly clear the pre-financing payments against statements of reported costs from the members.

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 2 Joint Undertaking
for the financial year 2016

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 557/2014 of 6 May 2014 establishing the Innovative Medicines Initiative 2 Joint Undertaking¹, and in particular Article 12 thereof,

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

Having examined the revenue and expenditure accounts for the financial year 2016 and the balance sheet as at 31 December 2016 of the Innovative Medicines Initiative 2 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 2016, accompanied by the Joint Undertaking's replies to the Court's observations²,

¹ OJ L 169, 7.6.2014, p. 54.

² OJ C 426, 12.12.2017, p. 49.

Whereas the observations in the Court of Auditors' report in relation to the financial year 2016 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 financial year 2016.

Done at Brussels,

For the Council
The President

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION ON THE
DISCHARGE TO BE GIVEN TO THE INNOVATIVE MEDICINES INITIATIVE 2 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 2016 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 2016 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council encourages the Joint Undertaking to complete without delay the integration of its control systems with the Commission's common Horizon 2020 grant management and monitoring tools.

The Council regrets the delays in making payments to beneficiaries and urges the Joint Undertaking to improve its internal control and monitoring procedures for project reports and related cost claims.

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 2 Joint Undertaking
for the financial year 2016

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 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 Joint Undertaking¹, and in particular Article 12 thereof,

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

Having examined the revenue and expenditure accounts for the financial year 2016 and the balance sheet as at 31 December 2016 of the Fuel Cells and Hydrogen 2 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 2016, accompanied by the Joint Undertaking's replies to the Court's observations²,

¹ OJ L 169, 7.6.2014, p. 108.

² OJ C 426, 12.12.2017, p. 42.

Whereas the Council welcomes the fact that the observations in the Court of Auditors' report in relation to the financial year 2016 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 2016.

Done at Brussels,

For the Council

The President

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Electronic Components and Systems for European Leadership (ECSEL) Joint
Undertaking
in respect of the implementation of the budget
of the ECSEL Joint Undertaking
for the financial year 2016

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 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 financial year 2016 and the balance sheet as at 31 December 2016 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 financial year 2016, accompanied by the Joint Undertaking's replies to the Court's observations²,

¹ OJ L 169, 7.6.2014, p.152.

² OJ C 426, 12.12.2017, p. 23.

Whereas the observations in the Court of Auditors' report in relation to the financial year 2016 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 financial year 2016.

Done at Brussels,

For the Council
The President

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION ON THE
DISCHARGE TO BE GIVEN TO THE ELECTRONIC COMPONENTS AND SYSTEMS
FOR EUROPEAN LEADERSHIP (ECSEL) 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 2016 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 2016 are legal and regular, with the exception of the matter described below. In addition, some observations need to be made.

The Council regrets the Court's qualified opinion on the legality and regularity of the transactions underlying the accounts of the Joint Undertaking, resulting from the significant variation in the methodologies and procedures used by the different national funding authorities for the Seventh Research Framework Programme (FP7) projects. It asks the Joint Undertaking to improve its assessment methods for the implementation of national ex-post audit procedures, in order to obtain reasonable assurance to calculate a reliable single error rate.

Moreover, the Council is concerned about the shortcomings identified by the Court in the monitoring of pre-financing of FP7 projects, where the late attempt to recover the pre-financing payments made to insolvent beneficiaries led to a financial loss of EUR 230 000. The Council calls on the Joint Undertaking to swiftly launch, when needed, its procedure to deal with cases of insolvency or bankruptcy of beneficiaries.

Finally, the Council calls on the Joint Undertaking to consistently apply its rules on the prevention and management of conflicts of interest to its governance structure.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Bio-based Industries Joint Undertaking
in respect of the implementation of the budget
of the Bio-based Industries Joint Undertaking
for the financial year 2016

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 560/2014 of 6 May 2014 establishing the Bio-based Industries Joint Undertaking¹, and in particular Article 12 thereof,

Having regard to the Financial Rules of the Bio-based Industries Joint Undertaking adopted by its Governing Board on 14 October 2014,

Having examined the revenue and expenditure accounts for the financial year 2016 and the balance sheet as at 31 December 2016 of the Bio-based Industries 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 2016, accompanied by the Joint Undertaking's replies to the Court's observations²,

¹ OJ L 169, 7.6.2014, p. 130.

² OJ C 426, 12.12.2017, p. 8.

Whereas the Council welcomes the fact that the observations in the Court of Auditors' report in relation to the financial year 2016 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 2016.

Done at Brussels,

For the Council

The President

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Shift2RailJoint Undertaking
in respect of the implementation of the budget
of the Shift2Rail Joint Undertaking
for the financial year 2016

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 642/2014 of 16 June 2014 establishing the Shift2Rail Joint Undertaking ¹, and in particular Article 12 thereof,

Having regard to the Financial Rules of the Shift2Rail Joint Undertaking adopted by its Governing Board on 11 December 2015,

Having examined the revenue and expenditure accounts for the financial year 2016 and the balance sheet as at 31 December 2016 of the Shift2Rail 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 2016, accompanied by the Joint Undertaking's replies to the Court's observations²,

¹ OJ L 177, 17.6.2014, p. 9.

² OJ C 426, 12.12.2017, p. 64.

Whereas the observations in the Court of Auditors' report in relation to the financial year 2016 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 financial year 2016.

Done at Brussels,

For the Council
The President

**COMMENTS ACCOMPANYING THE COUNCIL RECOMMENDATION ON THE
DISCHARGE TO BE GIVEN TO THE SHIFT2RAIL 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 2016 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 2016 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council urges the Joint Undertaking to perform a specific anti-fraud risk assessment and to establish an action plan for the implementation of its own anti-fraud strategy.

The Council calls on the Joint Undertaking to pay due attention to the financial risk associated with the completion of projects and to avoid the high concentration of total project funding to a single coordinating partner.

The Council also invites the Joint Undertaking to introduce a methodology to systematically assess the needs and costs of contracts in its procurement procedures.