



Council of the  
European Union

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Brussels, 14 November 2017  
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RECH 86  
ATO 61

## DECLASSIFICATION

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Subject: ITER - Adoption of a Council Decision amending the Directives in the Council Decision of 16 November 2000 for the Commission to conduct negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER Legal Entity for ITER construction and operation, if and when so decided.

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 21 May 2002**

**9028/02**

**RESTREINT UE**

**RECH 86  
ATO 61**

## "A" ITEM NOTE

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From: General Secretariat of the Council  
To : Council  
No. Cion prop. : 6781/02 RECH 48 ATO 33 - SEC(2002) 205 final

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Subject : ITER - Adoption of a Council Decision amending the Directives in the Council Decision of 16 November 2000 for the Commission to conduct negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER Legal Entity for ITER construction and operation, if and when so decided.

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1. The Commission submitted the above proposal to the Council on 28 February 2002.
2. It is recalled that the Council, in its decision of 16 November 2000, gave the Commission directives to conduct negotiations on the establishment of an international framework for the future establishment of an ITER legal entity for ITER construction and operation, if and when so decided.
3. The Commission wishes to amend the directives contained in the Council decision to include the presentation of (a) site offer(s) in Europe and the negotiation of possible cost-sharing provisions depending on the site.

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4. The Joint Research/Atomic questions working party examined the proposal at its meeting on 18<sup>th</sup> April 2002 and has approved the amended directives as set out in Annex I.
5. The Permanent Representatives Committee at its meeting on 8 May 2002 recommended the Council to adopt, as an "A" item at a forthcoming meeting, the decision amending the directives contained in the Council decision of 16 November 2000.

The Austrian delegation, however, wishes the unilateral statement contained in Annex II to be included in the Council minutes.

6. It is suggested, therefore, that the Council adopts, as an "A" item at a forthcoming meeting, the decision amending the directives contained in the Council decision of 16 November 2000 and includes the Austrian statement in its minutes.

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## COUNCIL DECISION

**amending the Directives in the Council Decision of 16 November 2000 for the Commission to conduct Negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER Legal Entity for ITER construction and operation, if and when so decided**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Council Decision 1999/64/Euratom<sup>1</sup> adopting the 5th Framework Programme of the European Atomic Energy Community (Euratom) for research and training activities (1998-2002) and to the Council Decision 1999/175/Euratom<sup>2</sup> adopting a specific programme (Euratom) for research and training in the field of nuclear energy (1998-2002);

Having regard to the Council Decision of 16 November 2000 that gave the Commission Directives to conduct negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER Legal Entity for ITER construction and operation, if and when so decided;

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<sup>1</sup> OJ L26, 1.2.1999, p.34

<sup>2</sup> OJ L 64, 12.3.1999, p 142

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Having regard to the exchange of letters between the ITER Parties on invitation of the Director General of the International Atomic Energy Agency of 18 January 2001 that established the Co-ordinated Technical Activities for ITER,

Having regard to the proposal from the Commission,

Whereas:

- (1) The key action on controlled thermonuclear fusion in the 5th Euratom Framework Programme should enhance Euratom's preparedness from a scientific, technical and organisational point of view to decide on and support a next step device such as ITER after the present generation of fusion devices,
- (2) The co-operative work performed during the period July 1992-July 2001 under the ITER EDA Agreement has been successfully completed and has placed at the disposal of the former ITER EDA Parties a complete, detailed and mature design for ITER,
- (3) The government of Canada has presented an offer to host ITER in its territory,
- (4) At the 30 October 2001 Research Council, the French Minister for Research, invited the European Union to define the conditions, in particular their financial aspects, that will be proposed to the Member States that are candidates for hosting ITER. In that context, the French Minister asked that the French proposal to establish ITER in Cadarache be taken into account in this process,
- (5) At the meeting of the Consultative Committee for the Euratom Specific Research and Training Programme in the field of Nuclear Energy (Fusion) (CCE-FU) of 12 October 2001, it was announced that the Spanish Ministry of Science and Technology had decided to conduct a study to analyse the possibility of proposing Spain as a possible European site for ITER,
- (6) The Council has reached a political agreement on the 6th Framework Programme (Euratom) which foresees a possible start of ITER construction as part of the fusion programme,
- (7) In view of the above, it is now appropriate to amend the Directives with a view to including (a) possible offer(s) to site ITER in Europe and financing and cost sharing arrangements,

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HAS DECIDED AS FOLLOWS:

## *Sole Article*

The amendments to the Directives in the Council Decision of 16 November 2000 for the Commission to conduct Negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER Legal Entity for ITER construction and operation, if and when so decided, annexed to this Decision, are hereby approved.

Done at Brussels,

*For the Council  
The President*

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## ANNEX

1. The title of the Annex to the Decision shall be replaced by the following:

‘DIRECTIVES FOR THE COMMISSION TO CONDUCT NEGOTIATIONS ON AN AGREEMENT TO ESTABLISH AN ITER LEGAL ENTITY (ILE) FOR THE JOINT IMPLEMENTATION OF ITER, IF AND WHEN SO DECIDED’

2. The text of the Annex to the Decision shall be amended as follows:

2.1. Paragraph (2) shall be replaced by the following:

‘ (2) The agreement shall allow the Parties to establish an ITER Legal Entity (ILE), if and when so decided.’

‘ (3) The Commission is authorised to transmit to the Parties offers of potential candidates for European sites proposed by Member States and to negotiate with the Parties financing and cost-sharing arrangements in conjunction with site offers.’

2.2. Paragraph 3 shall be replaced by paragraph 4 with the following text:

‘(4) The Agreement referred to under paragraph 2 should in particular encompass draft provisions on:

- (a) the establishment of the ILE under international law,
- (b) possible siting of ITER,
- (c) the institutional and managerial structure of the ILE,
- (d) draft site agreement(s) including provisions for local technical support,
- (e) privileges and immunities and other advantages which might be granted to the ILE and its staff,
- (f) draft staffing arrangements,
- (g) possible financing and cost sharing schemes, <sup>1</sup>
- (h) draft regulations and implementing measures governing the contributions in-kind and the funding of the ILE to be made by the Parties,
- (i) provisions on intellectual property rights,
- (j) participation and/or accession of third countries,
- (k) amendments and provisions on dispute settlement,
- (l) the role of the IAEA’

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<sup>1</sup> The Commission will take the ITER cost sharing scheme mentioned in its staff working paper (doc. 7124/02 RECH 57 ATO 36) as a reference for negotiations. This does not anticipate the outstanding agreement to the proposed sharing of costs between Euratom, host country and associations.

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2.4. Paragraph 4 shall be renumbered and become paragraph 5.

The first phrase shall be replaced by the following:

‘(5) The following tasks should be addressed: ’

2.5. Paragraph 5 shall be replaced by paragraph 6 with the following text:

‘(6) The Parties should take all the appropriate measures to facilitate the achievement of the above tasks including the establishment of appropriate transitional arrangements to ensure a smooth transition between the present Coordinated Technical Activities for ITER and the joint implementation of ITER.’

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### STATEMENT TO THE COUNCIL MINUTES BY THE AUSTRIAN DELEGATION

"Austria confirms that it takes the words "if and when decided" in the title and sole Article of this decision to refer to the whole text of the Council Decision, including the Annex. Austria reaffirms that any other interpretation would imply a decision in favour of construction and operation of the ITER and should therefore be rejected".

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