

COUNCIL OF THE EUROPEAN UNION

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COVER NOTE	
from:	Mr Vítor CALDEIRA, President of the Court of Auditors
date of receipt:	3 December 2012
to:	Mrs Erato KOZAKOU-MARCOULLIS, President of the Council of the European Union
Subject:	Report on the annual accounts of the Artemis Joint Undertaking for the financial year 2011 together with the replies of the Joint Undertaking

Madam,

I enclose in all the official languages of the European Union a copy of the Court of Auditors' report on the annual accounts of the ARTEMIS Joint Undertaking for the financial year 2011.

This report is accompanied by the Joint Undertaking's replies and will shortly be published in the Official Journal of the European Union.

(Complimentary close).

(s.) Vítor CALDEIRA

Encl.: Report on the annual accounts of the Artemis Joint Undertaking for the financial year 2011 together with the replies of the Joint Undertaking.

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Report on the annual accounts of the Artemis Joint Undertaking for the financial year 2011

together with the replies of the Joint Undertaking

INTRODUCTION

- 1. The Artemis Joint Undertaking, located in Brussels, was set up in December 2007¹ for a period of 10 years.
- 2. The main objective of the Joint Undertaking is to define and implement a "Research Agenda" for the development of key technologies for Embedded Computing Systems across different application areas in order to strengthen European competitiveness and sustainability, and allow the emergence of new markets and societal applications².
- 3. The Founding Members of the Artemis Joint Undertaking are the European Union represented by the Commission, the Member States Austria, Belgium, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Portugal, Romania, Slovenia, Spain, Sweden, the United Kingdom, and Artemisia, an association representing companies and other research organisations active in the field of Embedded Computing Systems in Europe. In 2009, Cyprus, the Czech Republic, Latvia and Norway also became members of the Joint Undertaking.
- 4. The maximum EU contribution to the Artemis Joint Undertaking to cover running costs and research activities is 420 million euro to be paid from the budget of the Seventh Framework Programme³. The Artemisia association is to make a maximum contribution of 30 million euro to the running costs. Artemis

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 Systems (OJ L 30, 4.2.2008, p. 52).

The Annex summarises the Joint Undertaking's competences and activities. It is presented for information purposes.

The Seventh Framework Programme, adopted by Decision No 1982/2006/EC of the European Parliament and the Council (OJ L 412, 30.12.2006, p. 1), brings all the research-related EU initiatives together under one roof and plays a crucial role in achieving the goals of growth, competitiveness and employment. It is also a key pillar for the European Research Area.

Member States are to make in-kind contributions to the running costs (by facilitating the implementation of projects), and to provide financial contributions of at least 1,8 times the EU contribution. In-kind contributions are also to be provided by research organisations participating in projects.

5. The Joint Undertaking started to work autonomously on 26 October 2009.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

6. The audit approach taken by the Court comprises analytical audit procedures, testing of transactions at the level of the Joint Undertaking and an assessment of key controls of the supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

7. Pursuant to the provisions of Article 287(1) of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts⁴ of the Artemis Joint Undertaking, which comprise the "financial statements"⁵ and the "reports on the implementation of the budget"⁶ for the financial year ended 31 December 2011 and the legality and regularity of the transactions underlying those accounts.

The Court received the provisional annual accounts on 1 March 2012. These accounts are accompanied by a report on the budgetary and financial management during the year which gives *inter alia* an account of the rate of implementation of the appropriations.

The financial statements include the balance sheet and the economic outturn account, the cash flow table, the statement of changes in net assets and the annex to the financial statements, which includes a description of the main accounting policies and other explanatory information.

The budget implementation reports comprise the budget outturn account and its annex.

8. This Statement of Assurance is addressed to the European Parliament and the Council in accordance with Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002⁷.

The Management's responsibility

9. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the Joint Undertaking's financial rules under his own responsibility and within the limits of the authorised appropriations⁸. The Director is responsible for putting in place⁹ the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts¹⁰ that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

The Auditor's responsibility

- 10. The Court's responsibility is to provide, on the basis of its audit, a statement of assurance as to the reliability of the Joint Undertaking's annual accounts and the legality and regularity of the transactions underlying them.
- 11. The Court conducted its audit in accordance with the IFAC and ISSAI¹¹
 International Auditing Standards and Codes of Ethics. Those standards require

Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72).

⁷ OJ L 248, 16.9.2002, p. 1.

⁹ Article 38 of Regulation (EC, Euratom) No 2343/2002.

The rules concerning the presentation of the accounts and accounting by EU bodies are laid down in Chapters 1 and 2 of Title VII of Regulation (EC, Euratom) No 2343/2002, as last amended by Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23), and are integrated as such in the financial rules of the Joint Undertaking.

International Federation of Accountants (IFAC) and International Standards of Supreme Audit Institutions (ISSAI).

the Court to comply with ethical and professional requirements and to plan and perform the audit so as to obtain reasonable assurance as to whether the accounts are free from material misstatement and whether the underlying transactions are legal and regular.

- 12. The Court's audit involves performing procedures to obtain audit evidence of the amounts and disclosures in the accounts and of the legality and regularity of the transactions underlying them.. The procedures selected, including its assessment of the risks of material misstatement of the accounts or of illegal or irregular transactions, whether due to fraud or error, depend on its audit judgement. In making those risk assessments, internal controls relevant to the entity's preparation and presentation of accounts are considered in order to design audit procedures that are appropriate in the circumstances. The Court's audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of the accounting estimates made by management, as well as evaluating the overall presentation of the accounts.
- 13. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinions set out below.

Opinion on the reliability of the accounts

14. In the Court's opinion, the annual accounts of the Joint Undertaking fairly present, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its financial rules.

Basis for a qualified opinion on the legality and regularity of the underlying transactions

15. The ex post audit strategy¹² of the Joint Undertaking was adopted by a Governing Board decision on 25 November 2010 and is a key control¹³ for assessing the legality and regularity of the underlying transactions. The payments made in 2011 relating to certificates of acceptance of costs issued by the National Funding Authorities of the Member States (NFAs) amounted to 4,8 million euro, which represents 32 % of total operational payments. The implementation of the ex post audit strategy started in 2011.

16. The audit of project cost claims has been delegated to the NFAs of the Member States. The administrative agreements signed with the NFAs do not include the practical arrangements for the ex post audits. By the end of the audit (September 2012), Artemis had not received sufficient information relating to the audit strategies of eight of the NFAs¹⁴ and was not in a position to

The general financing agreement between the European Commission and the Joint Undertaking states that "the Joint Undertaking in its competent board, adopts its ex-post audit strategy with the aim of providing reasonable assurance on the legality and regularity of the underlying transactions" and "the ex-post audit strategy shall be based on examination of procedures and of a sample of transactions for all or a sample of beneficiaries and shall, in particular, adequately reflect the risks involved."

Article 12 of Regulation (EC) No 74/2008 states that "The Artemis Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls" and "The Artemis Joint Undertaking shall carry out on-the-spot checks and financial audits among the recipients of the Artemis Joint Undertaking's public funding. These checks and audits shall be performed either directly by the Artemis Joint Undertaking or by Artemis Member States on its behalf. Artemis Member States may carry out any other checks and audits among the recipients of their national funding as they deem necessary and shall communicate the results to the Artemis Joint Undertaking."

The documentation received so far is in most cases insufficient to allow the Joint Undertaking to assess these strategies and their implementation as no details on the audit arrangements are provided (i.e. audit approach and methodology, size of the sample, the type of financial checks to be performed by the NFAs etc.).

assess whether the ex-post audit strategy provides sufficient assurance with respect to the legality and regularity of the underlying transactions¹⁵.

17. The information available on the implementation of the Joint Undertaking's ex post audit strategy is not sufficient to conclude whether this key control is functioning effectively.

Qualified opinion on the legality and the regularity of the transactions underlying the accounts

18. In the Court's opinion, except for the possible effects of the matter described in the basis for a qualified opinion in paragraphs 15 to 17, the transactions underlying the annual accounts of the Joint Undertaking for the financial year ended 31 December 2011 are, in all material respects, legal and regular.

19. The comments which follow in paragraphs 20 to 35 do not call the Court's opinions into question.

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

20. Contrary to Artemis's financial rules, ¹⁶ the 2011 budget of the Joint Undertaking does not reflect differentiated payment appropriations for operational expenditure.

According to the ex-post audit strategy adopted by the Artemis Governing Board the Joint Undertaking shall assess at least once a year whether the information received from the Artemis Member States provides sufficient assurance with respect to the regularity and legality of the executed transactions. By the end of the audit only four Artemis Member States had sent information on the ex post audits performed.

Article 8(1) of the Artemis Joint Undertaking's financial rules states that "the budget shall contain non-differentiated appropriations and differentiated appropriations. The latter shall consist of commitment appropriations and payment appropriations."

21. The 2011 budget was adopted on 25 November 2010 and included operational appropriations amounting to 46,6 million euro. On 17 December 2011 an amending budget was adopted reducing operational appropriations to 18,6 million euro. While the utilisation rate for operational commitment appropriations was 100 % (as a result of the reduction of the operational appropriations to 18,6 million euro), the rate for payment appropriations was only 51 %.

22. According to the programme manager, the estimates for budget implementation for the 2008, 2009 and 2010 call for proposals at the end of the year amounted to 86 %, 53 % and 18 % respectively. However, the actual payments made under the 2008 call were only 50 %, 31 % for the 2009 call and no payments had been made under the 2010 call. According to the Joint Undertaking, the relatively low implementation rate for operational payment appropriations, is the consequence of the delays at the level of the Member States in signing the national grant agreements.

23. Contrary to the Statutes of the Artemis Joint Undertaking¹⁷, Greece is using EU structural funds to cover its national contributions to the Greek beneficiaries of the Artemis projects¹⁸ instead of providing national funding. The Joint Undertaking accepted the continuation of Greek participation in Artemis projects but no funding is being provided by the Joint Undertaking to the Greek

Article 13(1) of the Statutes of Artemis Joint Undertaking states "Public funding for projects selected following calls for proposals published by the Artemis Joint Undertaking shall consist of the national financial contributions from the Artemis Member States and/or the financial contribution from the Artemis Joint Undertaking. Any public support under this initiative is without prejudice to the

procedural and material State aid rules when applicable."

The total budget of the Greek participation in Artemis projects of the 2008, 2009 and 2010 calls amounts to 12,2 million euro (estimated as 5,7 million euro of national funds, 2,03 million euro of Joint Undertaking contribution and the rest from the project participants).

beneficiaries as co-financing with another source of EU funding is not allowed¹⁹.

24. The Joint Undertaking is using non-automatic carryover of payment appropriations to the next financial year, but without a decision of the Governing Board as required by Article 10(1) of the financial rules²⁰. Moreover, no distinction is made between payment appropriations carried over from previous years and payment appropriations of the current year.

Calls for proposals

25. The Council Regulation setting up the Artemis Joint Undertaking envisaged a maximum total budget of 420 million euro to cover operational expenditure. The actual implementation and the foreseen value of the calls for proposals represent 244 million euro or 58 % of the total budget.

COMMENTS ON KEY CONTROLS OF THE JOINT UNDERTAKING'S SUPERVISORY AND CONTROL SYSTEMS

26. During 2011 the Joint Undertaking intensified its efforts to establish and implement effective financial, accounting and management control procedures.

Article 54(5) of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (OJ L 210, 31.7.2006, p. 25) states "an expenditure co-financed by the Funds shall not receive assistance from another Union financial instrument".

Article 10(1) of the Joint Undertaking's financial rules states that "Appropriations which have not been used at the end of the financial year for which they were entered shall be cancelled. Given the needs of the Joint Undertaking, the cancelled appropriations may be entered in the estimate of revenue and expenditure of up to the following three financial years, in accordance with Article 27. However, they may, by decision of the Governing Board taken not later than 15 February, be carried over to the next financial year only."

However further work is needed, in particular regarding the internal control standards²¹ and the financial verification of cost claims²².

27. The Accounting Officer validated the financial and accounting systems used, but has not yet validated the underlying business processes which provide financial information, in particular, the one providing financial information about the validation and payment of the cost claims received from the national authorities.

OTHER MATTERS

Internal Audit Capability and the Commission's Internal Audit Service

28. Article 6(2) of the Regulation setting up Artemis stipulates that the Joint Undertaking shall have an internal audit capability. However, at the end of 2011, this important element of the internal control system had not yet been set up.

29. In 2011 the Commission's Internal Audit Service carried out a risk assessment exercise and the strategic audit plan for 2012-2014 was presented to the Governing Board for adoption on 25 January 2012.

30. The mission charter of the Commission's Internal Audit Service was adopted by the Governing Board on 25 November 2010. However, the financial rules of the Joint Undertaking have not yet been amended to include the

On 22 September 2010 the Governing Board approved the Joint Undertaking's internal control framework which is composed of 16 internal control standards. Although significant progress has been made, some of these standards are still not fully implemented.

Regarding financial verification of costs, full reliance is placed on the certificates provided by the national authorities. Apart from the checks carried out by the Joint Undertaking on the staff assigned to the projects (only as an indicator of the personnel costs used to implement the activities), no other financial checks are performed by the Joint Undertaking.

provision of the Framework Regulation²³ referring to the powers of the Commission's Internal Auditor.

Annual activity report

31. According to Articles 19(4) of the Statutes of the Joint Undertaking and Article 40 of its Financial Rules, the Executive Director is required to draw up an annual activity report. The annual activity report shall indicate the results of the operations by reference to the objectives set, the risks associated with these operations, the use made of the resources provided and the efficiency and effectiveness of the internal control system. It shall also confirm that the information contained in the report presents a true and fair view except as otherwise specified in any reservations related to defined areas of revenue and expenditure.

32. Although the annual activity report provides information on the results of the operations of the Joint Undertaking, it does not include an assessment of the efficiency and effectiveness of the internal control system. The annual activity report contains the following weaknesses:

- Lack of information on the implementation of the ex-post audit strategy,
 which is not sufficient to conclude whether this key control is functioning
 effectively, and should have led to a reservation.
- No information on the partial validation of the financial and accounting systems by the accounting officer is provided. The accounting officer has validated only the part that is under the direct Joint Undertaking control but not the systems providing information from the National Funding Authorities.
- There are unexplained differences between the budgetary implementation figures included in the Outturn on payments appropriations of the annual

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²³ Regulation (EC, Euratom) No 2343/2002.

activity report and the budgetary implementation figures included in the Final Accounts.

Follow up of previous observations

- 33. During 2011 the Joint Undertaking set up a Business Continuity Plan and made progress on the formalisation of the IT security policies. Further work is required to finalise the Disaster Recovery Plan.
- 34. Contrary to the Artemis Joint Undertaking's financial rules²⁴, the National Funding Authorities have not yet declared any bank interest generated on prefinancing payments.
- 35. The Host State Agreement²⁵ between the Joint Undertaking and the Belgian authorities concerning office accommodation, privileges and immunities and other support to be provided was signed on 2 February 2012.

Article 103(2) of the Artemis Joint Undertaking's financial rules states that "Interest generated by pre-financing payments shall be assigned to the programme implemented by the Joint Undertaking and deducted from the payment of the balance of the amounts due to the beneficiary. Interest shall not be due to the Joint Undertaking if the pre-financing does not exceed the amount of 50 000 euro."

Paragraph 26 of the Court of Auditors' report on the annual accounts of the Artemis Joint Undertaking for the financial year 2010, together with the replies of the Joint Undertaking (OJ C 368, 16.12.2011, p. 1).

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 15 November 2012.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

<u>Annex</u>

Artemis Joint Undertaking (Brussels)

Competences and activities

Areas of Union competence deriving from the Treaty (Extracts from Article 187 of the Treaty on the Functioning of the European Union)	The Union may set up joint undertakings or any other structure necessary for the efficient execution of Union research, technological development and demonstration programmes.
Competences of the Joint Undertaking	Objectives The Artemis Joint Undertaking shall contribute to the implementation of the 7 th Framework
(Council Regulation (EC) No 74/2008)	Programme and the theme "information and communication technologies" of the specific programme "cooperation".
	Tasks
	 define and implement a 'Research Agenda' for the development of key technologies for Embedded Computing Systems;
	 support the implementation of the R & D Activities by awarding funding to participants in selected projects following competitive calls for proposals;
	 promote a public-private partnership aimed at mobilising and pooling Union, national and private efforts and increasing overall R & D investments in the field of Embedded Computing Systems;
	 achieve synergy and coordination of European R & D efforts in the field of Embedded Computing Systems;
	- promote the involvement of SMEs.
Governance	The Governing Board (GB): has overall responsibility for the operations of the Joint Undertaking and oversees the implementation of its activities.
	The Director: is the chief executive responsible for the day-to-day management of the Joint Undertaking in accordance with the decisions of the Governing Board.
	The Public Authorities Board: is responsible for the decisions on the scope and budget of the calls for proposals, selection of proposals and allocation of public funds for selected proposals.
	The Industry and Research Committee: elaborates the multiannual strategic plan as well as the research agenda and the annual work programme.
	External audit
	Court of Auditors.
	Discharge authority
	European Parliament, acting on a recommendation from the Council.
Resources available to the Joint Undertaking in 2011	Budget: the budget contains commitment appropriations for 28,5 million euro and payment appropriations for 32 million euro
111 2011	Staff at 31 December 2011
	8 posts provided for in the establishment plan were fully occupied
	Other staff:
	- Seconded National Experts: 0

	- Contract staff: 5
	- Local staff: 0
	- Total staff employed: 13
	Allocated to:
	- Operational activities: 6
	- Administrative tasks: 4
	- Mixed tasks: 3
Activities and services provided in 2011	A Call for Proposals was organised in 2011 with an overall budget of 72 million euro.
Source: Information suppli	ied by the Joint Undertaking.

Comments on the Final Report on the annual accounts of the Artemis Joint Undertaking for the financial year 2011

Observations 15-16-17

We acknowledge the importance of the ex-post audit strategy and the pertinence of the Court's observations. However, we would like to bring additional information:

- The various financing schemes and national rules in place in the different Member States imply that ex-post audit is only feasible on completed projects. In that perspective, a proposal for an ad-hoc modification of Artemis ex-post audit strategy will be submitted to the Governing Board for adoption in December 2012
- 2. In that perspective, knowing that the first group of projects or part of it (Call 2008) will terminate in the course of 2011, we have anticipated the ex-post audit issue by starting to collect from the Member States, early 2011 (just after the approval by the Artemis Governing Board, of the expost audit strategy), documentation about their ex-post audit strategy.
- 3. In the course of 2011, we received only one "end-of-project certificate and ex-post audit information" and 15 more were received in the first three months of 2012. At the time of the audit, April 2012, it is true that the documentation received from the Member States was far from being complete, it's also true that significant progress has already been demonstrated during 2012.
- 4. For these reasons, the declaration of assurance of the Executive Director didn't make reference to the implementation of the ex-post audit strategy, taking into account the absence of materiality for the year 2011. It will be obviously included in the Annual Activity Report 2012.

Observation 24

Article 10(1) of the financial rules was transposed from the Framework Financial Regulation for Agencies and is fully respected in Artemis JU for commitment appropriations. This request (concerning payment appropriations) to the Governing Board has sense in Agencies that send the excess of revenues back to the European Commission. Article 15 of the Artemis Statutes forbids this possibility, with the exception of a winding-up scenario.

Observation 28

The Commission's Internal Audit Service is the Internal Auditor of ARTEMIS since 25 November 2010 and, taking into account the size of the Artemis Joint Undertaking staff, has kindly offered to be also the Internal Audit Capability of Artemis. Lengthy discussions between the IAS and the Commission are still ongoing and have delayed the implementation of this plan. This was confirmed by the IAS in the Governing Board meeting held on January 25, 2012. The Artemis JU hopes that the IAS will fulfill that role as soon as possible. In the meantime, the Executive Director has replaced that role of the IAS by collective (the whole team) off-site meetings addressing the main topics related to process improvements.

Observation 30

We agree with the observation, but, for reasons of simplification and efficiency, we have decided to amend our Financial Rules for this point, at the time we'll have to amend them for the on-going revision of the General Financial Regulation.

Observation 32

The differences between the two reports (Annual Accounts and Annual Activity Report) are due to different criteria used. As stated in the Annual Activity Report all types of credits/fund sources are reported (footnote table 1) while in the Annual Accounts only the implementation of the budget of the current year is reported.