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From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	25 November 2013
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the SESAR Joint Undertaking for the financial year 2012 together with the Joint Undertaking's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the SESAR Joint Undertaking for the financial year 2012.

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

Encl.: Report on the annual accounts of the SESAR Joint Undertaking for the financial year 2012 together with the Joint Undertaking's replies.¹

¹ In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.

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Report on the annual accounts of the
SESAR Joint Undertaking
for the financial year 2012

together with the Joint Undertaking's replies

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INTRODUCTION

1. The SESAR Joint Undertaking, located in Brussels, was set up in February 2007¹ in order to manage the activities of the SESAR (Single European Sky Air Traffic Management Research) project.
2. The SESAR project aims to modernise air traffic management (ATM) in Europe and is divided into three phases:
 - (a) A "definition phase" (2004-2007) led by the European Organisation for the Safety of Air Navigation (Eurocontrol), with co-financing from the European Union budget through the Trans-European Networks – Transport programme. The outcome was the European ATM Master Plan, which defines the content and describes the development and deployment of the next generation of ATM systems.
 - (b) A "development phase" (2008-2016, funded by the 2008-2013 programming period – see Annex for synopsis) managed by the SESAR Joint Undertaking and leading to the production of new technological systems, components and operational procedures as defined in the European ATM Master Plan.
 - (c) A "deployment phase" (2014-2020) to be led by industry and stakeholders for the large-scale production and implementation of the new ATM infrastructure.
3. The Joint Undertaking was designed as a public-private partnership. The founding members are the European Union represented by the Commission, and Eurocontrol, represented by its Agency. Following a call for expressions of interest, fifteen public and private enterprises from the air navigation industry

¹ 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) (OJ L 64, 2.3.2007, p. 1), amended by Regulation (EC) No 1361/2008 (OJ L 352, 31.12.2008, p. 12).

became members of the Joint Undertaking. They include air navigation service providers, representatives of the ground and aerospace manufacturing industry, aircraft manufacturers, airport authorities and airborne equipment manufacturers.

4. The budget for the development phase of the SESAR project is 2,1 billion euro, to be provided in equal parts by the EU, Eurocontrol and the participating public and private partners. The EU contribution is funded from the Seventh Research Framework Programme and the Trans-European Networks – Transport programme. Around 90 % of the funding from Eurocontrol and the other stakeholders is in the form of in-kind contributions.

5. The SESAR JU started to work autonomously on 10 August 2007.

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 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

(a) the annual accounts of the SESAR Joint Undertaking, which comprise the financial statements² and the reports on the implementation of the budget³ for the financial year ended 31 December 2012, and

² These include the balance sheet, the economic outturn account, the cash-flow statement, the statement of changes in net assets, a summary of the significant accounting policies and other explanatory notes.

(b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

8. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002⁴, the management is responsible for the preparation and fair presentation of the annual accounts of the Joint Undertaking and the legality and regularity of the underlying transactions

(a) The management's responsibilities in respect of the Joint Undertaking's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, selecting and applying appropriate accounting policies on the basis of the accounting rules adopted by the Commission's accounting officer⁵, and making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Joint Undertaking after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, *inter alia*, that he has reasonable assurance that they present a true and fair view of the financial position of the Joint Undertaking in all material respects.

(b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound

³ These comprise the reports on implementation of the budget and a summary of budgetary principles and other explanatory notes.

⁴ OJ L 357, 31.12.2002, p. 72.

⁵ The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

financial management consist of designing, implementing and maintaining an effective and efficient internal control system comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

The auditor's responsibility

9. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council⁶ with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Joint Undertaking are free from material misstatement and the underlying transactions are legal and regular.

10. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that are implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the

⁶ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

reasonableness of accounting estimates and the overall presentation of the accounts.

11. 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

12. In the Court's opinion, the Joint Undertaking's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 and the results of its operations and cash flows for the year then ended, in accordance with the provisions of its financial rules and the accounting rules adopted by the Commission's accounting officer.

Opinion on the legality and regularity of the transactions underlying the accounts

13. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2012 are, in all material respects, legal and regular.

14. The following comments do not call the Court's opinions into question.

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

15. The final 2012 budget adopted by the Administrative Board reported commitment appropriations of 156,6 million euro and payment appropriations of 124,2 million euro. The utilisation rates for commitment and payment appropriations were 95,0 % and 86,3 % respectively.

16. The provisional 2012 budget outturn account shows 12,4 million euro, with receipts comprising member contributions and other sources of revenue of 107,4 and 0,1 million euro respectively, plus the previous year's budget surplus

of 15,6 million euro. This total is netted against payments of 107,3 million euro. Year-end cash and cash equivalents amount to 15,7 million euro.

Multilateral Framework Agreement

17. At 31 December 2012, the SESAR Joint Undertaking development phase consisted of work by 16 members on programme activities involving more than 100 private and public entities and subcontractors. Of the 336 projects selected, 312 (92,8 %) were being implemented.

18. Of the co-financing contributions paid to members by the European Union and Eurocontrol (595 million euro), 437,5 million euro had been committed and 233,8 million euro had been paid at 31 December 2012. It is anticipated that the remaining 158 million euro will be committed by 31 December 2013, and that 361,2 million euro will be paid by 31 December 2016.

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

Validation of accounting systems

19. The accounting officer confirmed the validation of the underlying business processes in April 2013, reflecting the fact that no significant changes were made to the internal control system during the 2012 financial year.

Assessment of in-kind contributions

20. On the basis of the award of programme activities as formalised in the Multilateral Framework Agreement and subsequent amendments, net in-kind contributions over the life of SESAR are estimated, at 31 December 2012, to be 1 300 million euro. The Executive Director validated net in-kind contributions of 139,2 million euro during 2012.

Internal control matters

21. The Court notes that improvements are required in the following ex ante control areas:

- improvements could be made to the documentation of controls on the monitoring of project deliverables, project performance analysis, subcontractor monitoring and cost claim certificates;
- a technical review report produced by external experts at an airborne equipment manufacturer in relation to projects carried out by it for the SESAR and Clean Sky Joint Undertakings concluded that improvements could be made to the exchange of data and results between the two Joint Undertakings, as well as to coordination at management and expert levels and to the establishment of criteria for allocating projects between them. The conclusions and recommendations resulting from the review are progressively being implemented and followed up with Clean Sky Joint Undertaking.

OTHER MATTERS***Internal audit function and the Commission's Internal Audit Service***

22. In accordance with the IAS/IAC coordinated strategic audit plan for the SESAR Joint Undertaking for 2012-2014, a programme/project audit and an IT risk assessment were carried out by the IAS. The SESAR IAC examined three calls for tenders and audited the implementation of four internal control standards. It also provided follow-up to the IAC's 2010 and 2011 reports, as well as other assurance services.

Monitoring and reporting of research results

23. The SESAR Joint Undertaking's policies and practices on the protection, dissemination and transfer of research activities and intellectual property rights

(IPR), and the related monitoring and reporting systems, are governed by Regulation (EC) No 219/2007⁷.

24. Detailed rules are given in membership agreements (MA) and the Multilateral Framework Agreement (MFA) between the SESAR Joint Undertaking and its members. In particular, Article 15 of the MFA states that the Administrative Board must further define how the rules on IPR are to be implemented.

25. The IPR provisions of these three documents are largely based on the rules set out in the FP7 and TEN-T, account being taken of the particular characteristics of the SESAR Joint Undertaking as a public-private partnership.

26. Implementation of these provisions is monitored by the SESAR Joint Undertaking at different stages of the funded projects, and reports are issued to the Administrative Board. In June 2013, the Joint Undertaking reported on IPR monitoring by providing the Administrative Board with a report devoted exclusively to the Joint Undertaking's monitoring of the IPR provisions to date.

This Report was adopted by Chamber IV, headed by Dr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 22 October 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

⁷ Article 10.3 and Article 18 of SESAR JU Council Regulation.

SESAR Joint Undertaking (Brussels)

Competences and activities

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Articles 187 and 188 of the Treaty on the Functioning of the European Union)</i></p>	<p>Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme provides for a Community contribution to the establishment of long-term public-private partnerships in the form of Joint Technology Initiatives which could be implemented through Joint Undertakings within the meaning of Article 187 of the Treaty.</p> <p>Council Regulation (EC) No 219/2007 setting up the SESAR Joint Undertaking, as last amended by Regulation (EC) No 1361/2008 (OJ L 352, 31.12.2008)</p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Regulation (EC) No 219/2007, as last amended by Regulation (EC) No 1361/2008)</i></p>	<p>Objectives</p> <p>The aim of the Joint Undertaking is to ensure the modernisation of the European air traffic management system by coordinating and concentrating all relevant research and development efforts in the Union. It shall be responsible for execution of the ATM Master Plan and, in particular, for carrying out the following tasks:</p> <ul style="list-style-type: none"> • organising and coordinating the activities of the SESAR development phase in accordance with the ATM Master Plan, which resulted from the definition phase of the project headed by Eurocontrol, by combining and managing public and private-sector funding under a single structure; • ensuring the necessary funding for the activities of the SESAR development phase in accordance with the ATM Master Plan; • ensuring the involvement of stakeholders in the air traffic management sector in Europe, in particular air navigation service providers, airspace users, professional staff associations, airports and manufacturers; as well as the relevant scientific institutions or the relevant scientific community; • organising the technical work of research and development, validation and study, to be carried out under its authority, while avoiding fragmentation of such activities; • ensuring the supervision of activities related to the development of common products duly identified in the ATM Master Plan and, if necessary, organising specific invitations to tender.
<p>Governance</p> <p><i>(Council Regulation (EC) No 219/2007, as last amended by Regulation (EC) No 1361/2008)</i></p>	<p>Administrative Board</p> <p>The Administrative Board is responsible for:</p> <ol style="list-style-type: none"> (a) adopting the ATM Master Plan endorsed by the Council as referred to in Article 1(2) of the Regulation and approving any proposal to modify it; (b) giving guidelines and taking the decisions necessary for the implementation of the development phase of the SESAR project, and exercising overall control over its implementation; (c) approving the Joint Undertaking's work programme and annual work programmes referred to in Article 16(1), as well as the annual budget, including the staff establishment plan; (d) authorising negotiations and deciding on the accession of new members and on the related agreements as referred to in Article 1(3); (e) supervising the execution of agreements between members and the Joint Undertaking;

	<p>(f) appointing and dismissing the Executive Director and approving the organisation chart and monitoring the Executive Director's performance;</p> <p>(g) deciding on the amounts and procedures for the payment of members' financial contributions and the assessment of contributions in kind;</p> <p>(h) adopting the financial rules of the Joint Undertaking;</p> <p>(i) approving the annual accounts and balance sheet;</p> <p>(j) adopting the annual report on the progress of the development phase of the SESAR project and its financial situation referred to in Article 16(2);</p> <p>(k) deciding on proposals to the Commission on the extension or dissolution of the Joint Undertaking;</p> <p>(l) establishing procedures for granting rights of access to tangible and intangible assets which are the property of the Joint Undertaking, and the transfer of such assets;</p> <p>(m) laying down rules and procedures for awarding the contracts necessary to implement the ATM Master Plan, including specific procedures in the event of conflicts of interest;</p> <p>(n) deciding on proposals to the Commission to amend the Statutes in accordance with Article 24;</p> <p>(o) exercising such other powers and performing such other functions, including the establishment of subsidiary bodies, as may be necessary for the purposes of the SESAR development phase;</p> <p>(p) adopting the arrangements for implementing Article 8.</p> <p>Executive Director</p> <p>The Executive Director shall perform his duties with complete independence within the powers assigned to him.</p> <p>Internal audit</p> <p>Internal Auditor of the European Commission</p> <p>External audit</p> <p>European Court of Auditors</p> <p>Discharge authority</p> <p>European Parliament, European Council and the Administrative Board of the JU</p>
<p>Resources available to the Joint Undertaking in 2012</p> <p><i>SESAR Joint Undertaking 2012 final accounts</i></p>	<p>Budget</p> <p>156 564 786 euro for commitments</p> <p>124 198 884 euro for payments</p> <p>Staff at 31 December 2012</p> <p>The 2012 operating budget provides for an establishment plan of 39 temporary agents and three seconded national experts (SNEs). This gives a total of 42 posts, of which 41 were occupied at year end 2012, compared to 35 in 2011:</p> <p>- 29 temporary staff, recruited externally,</p> <p>- 7 staff seconded by the SJU Members in accordance with Article 8 of Regulation (EC) No 219/2007,</p>

	<p>- 3 contractual staff, - 2 SNEs.</p> <p>Assigned to</p> <p>Operational tasks: 25 Administrative and support tasks: 15 Mixed tasks: 1</p>
Activities and services provided in 2012	See the Joint Undertaking's annual activity report for 2012 at http://www.sesarju.eu/

Source: Information supplied by the SESAR Joint Undertaking.