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From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	28 November 2013
To:	Mr Linas LINKEVICIUS, President of the Council of the European Union
Subject:	Report on the annual accounts of the Clean Sky Joint Undertaking for the financial year 2012 together with Joint Undertaking's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the Clean Sky 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 Clean Sky 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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EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
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Report on the annual accounts of the
Clean Sky Joint Undertaking
for the financial year 2012

together with the Joint Undertaking's replies

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INTRODUCTION

1. The Clean Sky Joint Undertaking, located in Brussels, was set up in December 2007¹ for a period of ten years.
2. The objective of the Clean Sky Joint Undertaking is to accelerate the development, validation and demonstration of clean air-transport technologies in the EU for earliest possible deployment². The research activities coordinated by the Joint Undertaking are divided into six technological areas or 'Integrated Technology Demonstrators' (ITDs).
3. The founding members of the Joint Undertaking are the European Union, represented by the Commission, and industrial partners as the leaders of the ITDs, together with the associate members of the ITDs.
4. The maximum EU contribution to the Clean Sky Joint Undertaking, to cover running costs and research activities, is 800 million euro to be paid from the budget of the Seventh Framework Programme³. Other members of the Joint Undertaking are to contribute resources at least equal to the EU contribution, including in-kind contributions.
5. The Joint Undertaking started working autonomously on 16 November 2009.

¹ Council Regulation (EC) No 71/2008 of 20 December 2007 setting up the Clean Sky Joint Undertaking (OJ L 30, 4.2.2008, p. 1).

² The ***Annex*** summarises the Joint Undertaking's competences, activities and available resources. It is presented for information purposes.

³ The Seventh Framework Programme, adopted by Decision No 1982/2006/EC of the European Parliament and of 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.

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 Clean Sky Joint Undertaking, which comprise the financial statements⁴ and the reports on the implementation of the budget⁵ for the financial year ended 31 December 2012, and
- (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 2343/2002⁶, 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

⁴ These include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in net assets, a summary of the significant accounting policies and other explanatory notes.

⁵ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

⁶ OJ L 357, 31.12.2002, p. 72.

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 officer⁷, 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 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 Council⁸ 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

⁷ 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.

⁸ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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 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 its statement of assurance.

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 its 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 comments which follow do not call the Court's opinion into question.

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

15. The 2012 final amending budget included commitment appropriations of 205,4 million euro and payment appropriations of 167,9 million euro. The utilisation rate for commitment appropriations was 84 %, while the rate for payment appropriations was 75 %⁹. The lower rate for payment appropriations reflects delays in the implementation of the budget, mainly as a result of delays in the implementation of activities¹⁰ and in the period between the publication of calls for proposals and the signing of grant agreements¹¹.

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

16. During 2012 the Joint Undertaking further improved its management, administrative, financial and accounting procedures. One of the main achievements in 2012 was the implementation of the "GMT tool", a specific application for managing financial information relating to the implementation of

⁹ In the case of grant agreements with partners, the utilisation rate for payment appropriations was only 60 %.

¹⁰ See paragraph 24.

¹¹ The average time between the publication of a call for proposals and the signing of grant agreements was 12 months in 2012.

grant agreements with members. However, the GMT tool still presents some limitations as regards the completeness of the operational information managed¹².

17. With regard to the *ex-ante* control of cost claims submitted by Clean Sky members, the audit certificates accompanying the cost claims of two beneficiaries were found to include reservations about the contracts of the staff employed on the project; in one of them the audit certificate also included reservations on the indirect cost rates applied. Despite these significant exceptions, the Joint Undertaking released the payments.

18. The following weaknesses were noted in respect of the *ex-ante* control of cost claims submitted by Clean Sky partners:

- the checklists used for the *ex-ante* control of cost claims were not always complete;
- the verifying officers did not prepare technical acceptance reports on the partners' activities ;
- in at least one case, the tasks of financial verification and authorisation were performed by the head of administration, which is contrary to the provisions of the financial procedures manual and the principle of segregation of duties;
- the Joint Undertaking's partners are generally late in submitting cost claims. At the time of the audit, at least 70 out of 292 cost claims had not been submitted to the Joint Undertaking on time. In 15 cases, the delay exceeded one year.

¹² Information still has to be included on adjustments to cost claims resulting from *ex-post* audits or other sources, and on the registration of partial payments.

19. The recommendations made in the accounting officer's 2012 validation of the underlying systems need to be duly followed up¹³.

OTHER MATTERS

Internal audit function and the Commission's Internal Audit Service

20. In 2012, resource constraints within the organisation and the launch of the first *ex-post* audit exercise compelled the internal auditor to focus on the Joint Undertaking's core processes, including the preparation of the 2012 accounts. As a result, the audit tasks scheduled in the 2012 audit plan could not be completed. A similar situation was reported by the Court in 2011¹⁴.

21. In 2012, the Commission's Internal Audit Service audited the annual planning process for the management of grants¹⁵. The audit concluded that the existing internal control system gave reasonable assurance as to the achievement of the business objectives set for this process, except for two very important reservations concerning delays in the implementation of the programme and the system for evaluating the utilisation of resources¹⁶.

22. The mission charter of the Commission's Internal Audit Service was adopted by the Governing Board on 31 March 2011. However, the Joint Undertaking's financial rules have not yet been amended to include the

¹³ See paragraph 24 of the Court's 2011 report.

¹⁴ See paragraph 25 of the Court's 2011 report.

¹⁵ Final Report on Grant Management – Annual Planning of 18 February 2013.

¹⁶ The IAS report points out that it is difficult for the Joint Undertaking to perform a proper evaluation of this area, since the ITD budget is presented at work package level while the Joint Undertaking monitors the implementation of activities at the level of deliverables.

provisions of the framework Regulation¹⁷ referring to the powers of the Commission's internal auditor.

Monitoring and reporting of research results

23. The Seventh Framework Programme (FP7) establishes a monitoring and reporting system covering the protection, dissemination and transfer of research results¹⁸.

24. In the grant agreements signed with beneficiaries, the Joint Undertaking has included specific provisions governing intellectual property rights and the dissemination of research results. Implementation of these provisions is monitored by the Joint Undertaking at different stages of the funded projects.

25. Nevertheless, the way the results of this monitoring are reported needs to evolve further to meet the objectives of Article 7 of Decision No 1982/2006/EC¹⁹ and Article 27 of Regulation (EC) No 1906/2006²⁰.

¹⁷ Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

¹⁸ FP7 monitoring reports: http://ec.europa.eu/research/evaluations/index_en.cfm?pg=fp7-monitoring.

¹⁹ Article 7 of Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) requires the Commission to continually and systematically monitor the implementation of the Seventh Framework Programme and its specific programmes and regularly report and disseminate the results of this monitoring.

²⁰ Article 27 of Regulation (EC) No 1906/2006 of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (OJ L 391, 30.12.2006, p. 1) requires the Commission to monitor the implementation of indirect actions on the basis of the periodic progress reports submitted. In particular, the Commission must monitor implementation of the plan for the use and dissemination of foreground. It must also set up and maintain an information

Follow-up of previous observations

26. Significant progress has been made as regards the IT aspects of the Joint Undertaking's business continuity plan and disaster recovery plan. According to the Joint Undertaking, these plans will be completed by the end of 2013.

system allowing for this monitoring to take place in an efficient and coherent manner across the Seventh Framework Programme.

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

Clean Sky 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 71/2008 of 20 December 2007 setting up the Clean Sky Joint Undertaking (OJ L 30, 4.2.2008, p. 1).</p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Regulation (EC) No 71/2008)</i></p>	<p>Objectives</p> <ul style="list-style-type: none"> - The Clean Sky Joint Undertaking shall contribute to the implementation of the Seventh Framework Programme and in particular Theme 7, 'Transport (including aeronautics)' of the specific 'Cooperation' programme; - accelerating in the EU the development, validation and demonstration of clean Air Transport Technologies for earliest possible deployment; - ensuring coherent implementation of European research efforts aiming at environmental improvements in the field of Air Transport; - creating a radically innovative Air Transport System based on the integration of advanced technologies and full scale demonstrators (ITDs), with the target of reducing the environmental impact of air transport through significant reduction of noise and gaseous emissions, and improvement of the fuel economy of aircrafts; - accelerating the generation of new knowledge, innovation and the uptake of research proving the relevant technologies and fully integrated system of systems, in the appropriate operational environment, leading to strengthened industrial competitiveness.
<p>Governance</p>	<ul style="list-style-type: none"> - The JU's governing body is the Governing Board. The Executive team is led by an Executive Director. Industry is represented through various means, such as ITD steering committees and the National States Representative Group.
<p>Resources available to the Joint Undertaking in 2012</p>	<p>Budget</p> <p>205 364 690 euro</p> <p>Staff at 31 December 2012</p> <p>24 posts provided for in the establishment plan (18 temporary staff and 6 contract staff), of which 23 posts were occupied; these were assigned to: operational activities (17); mixed tasks (6).</p>
<p>Activities and services provided in 2012</p>	<p>See Annual Activity Report 2012 of the Clean Sky Joint Undertaking at www.cleansky.eu</p>

Source: Information supplied by the Clean Sky Joint Undertaking.