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From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	19 November 2014
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 2013 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 2013.

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 2013 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
Clean Sky Joint Undertaking
for the financial year 2013

together with the Joint Undertaking's replies

CONTENTS

	Paragraph
Introduction	1 - 4
Information in support of the statement of assurance	5
Statement of assurance	6 - 13
Opinion on the reliability of the accounts	11
Opinion on the legality and regularity of the transactions underlying the accounts	12
Comments on budgetary and financial management	14 - 16
Implementation of the budget	14 - 16
Comments on key controls of the Joint Undertaking's supervisory and control systems	17 - 20
Other matters	21 - 32
Legal framework	21
Internal audit function and the Commission's Internal Audit Service	22 - 26
Monitoring and reporting of research results	27
Conflicts of interest	28 - 29
The Commission's Second Interim Evaluation	30 - 31
Follow-up of previous observations	32

INTRODUCTION

1. The Clean Sky Joint Undertaking, located in Brussels, was set up in December 2007¹ for a period of ten years and started working autonomously on 16 November 2009.
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.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

5. The audit approach taken by the Court comprises analytical audit procedures, testing of transactions at the level of the Joint Undertaking and an

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.

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

6. 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 2013, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

7. In accordance with Articles 33 and 43 of 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 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

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.

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

8. 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 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

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).

from material misstatement and the underlying transactions are legal and regular.

9. 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.

10. 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

11. In the Court's opinion, the Joint Undertaking's annual accounts present fairly, in all material respects, its financial position as at 31 December 2013, 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 rules adopted by the Commission's accounting officer.

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

12. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2013 are, in all material respects, legal and regular.

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

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

14. The 2013 final amending budget included commitment appropriations of 250,4 million euro and payment appropriations of 158,2 million euro⁹. The utilisation rate for commitment appropriations was 90,6 %, while the rate for payment appropriations was 87,7 %. The lower rate for payment appropriations, although better than in 2012 (75 %), still reflects delays in the implementation of the budget. These result mainly from delays in the implementation of activities and the length of time that elapses between the publication of calls for proposals and the signature of grant agreements¹⁰.

15. The maximum European Union contribution to the Clean Sky Joint Undertaking covering running costs and research activities is 800 million euro. In accordance with the Council Regulation setting up the Joint Undertaking¹¹,

⁹ The auditors noted that the figure under Title IV of the 2013 budget originally adopted and in amending budget No 1 for 2013 is wrong in both documents and that it was corrected in amending budget No 2 for 2013, which was adopted on 10 November 2013. This had no impact on the implementation of the budget.

¹⁰ The 2013 call for proposals SP1-JTI-CS-2013-01 was launched on 17 January 2013. The evaluation procedure ended on 17 May 2013. As at December 2013, only 36 % of the grant agreements had been signed (14 out of 38), the average time for signature being nine months from the time of the call and five months from the end of the negotiations.

¹¹ Article 5.1 and 4 of Council Regulation (EC) No 71/2008.

the other members of the Joint Undertaking contribute resources of at least 600 million euro, including their contributions to cover running costs¹².

16. At the time of the audit (April 2014), the European Union contribution committed amounted to 713 million euro, while resources from the other members amounted to 409 million euro¹³.

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

17. During 2013 the Joint Undertaking continued to improve its management, administrative, financial and accounting procedures. The "Grant management tool (GMT tool)¹⁴" was completed by introducing the adjustments to cost claims. Full information related to the ex-post audit exercises has still to be integrated in the system.

18. In addition, the accounting officer tested the functioning of the GMT tool and identified several weaknesses, in particular with regard to the function used to enter comments made by the financial and verifying officers. This function is essential to the validation procedure and the Joint Undertaking needs to follow up on this weakness.

¹² Article 12.3 of Annex 1 to Council Regulation (EC) No 71/2008: "The running costs of the Clean Sky Joint Undertaking shall be shared equally between on the one hand the Community, which shall contribute with 50 % of total cost, and on the other hand the rest of the Members, that shall contribute in cash the remaining 50 %. The running costs of the Clean Sky Joint Undertaking shall not exceed 3 % of the overall cash contribution and of the contributions in kind of the Members and Partners referred to in Article 13."

¹³ Including members' contributions that have been either validated or received but not yet validated, and the contribution of 10 million euro in cash to cover running costs.

¹⁴ The GMT tool is a specific application for managing financial information relating to the implementation of grant agreements with members, representing 75 % of the operational budget.

19. With regard to the *ex-ante* control on activities performed by Clean Sky members, in one case (contrary to the provisions of the Joint Undertaking's financial rules and its manual of procedures) the same staff member performed the procedure for validating the commitment in the capacity of both verifying agent and authorising officer; there was one payment in whose case the verifying agent was also the authorising officer; in another case the technical assessment report (an essential part of the operational verification procedure) was not available in the GMT tool.

20. 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;
- in one case the financial and operational verification tasks and authorisation were performed by the same staff member, which is contrary to the provisions of the financial procedures manual and the principle of segregation of duties; in three other cases, the tasks of the financial and authorisation officers were performed by the same staff member;
- in another case the grant agreement with the partner was signed five months after the activities had started in the absence of the requisite declaration justifying the need to begin the activities prior to signature of the grant agreement;
- the Joint Undertaking's partners are often late in submitting cost claims. At 31 December 2013, at least 56 out of 163 cost claims had not been submitted to the Joint Undertaking on time. In 15 cases, the delay exceeded one year.

OTHER MATTERS

Legal framework

21. The new Financial Regulation applicable to the general budget of the Union was adopted on 25 October 2012 and took effect on 1 January 2013¹⁵. However, the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation No 966/2012 of the European Parliament and of the Council¹⁶ did not enter into force until 8 February 2014. The financial rules of the Joint Undertaking were amended on 3 July 2014 to reflect these changes.

Internal audit function and the Commission's Internal Audit Service

22. In 2013 the internal auditor started an audit, in cooperation with an external audit firm, of the Joint Undertaking's business processes related to "Coordination and monitoring of the ITD activities" and "Management of the Partners' activities". The Final Audit Report was not available at the time of the Court's audit.

23. On 28 March 2013 the Joint Undertaking adopted an action plan in response to the observations raised by the Commission's Internal Audit Service with regard to Grant Management - Annual Planning¹⁷. At the time of the audit, the implementation of these actions was not fully completed.

¹⁵ 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 1605/2002 (OJ L 298, 26.10.2012, p. 1).

¹⁶ OJ L 38, 7.2.2014, p. 2.

¹⁷ The main observations in the report relate to the delays in implementing the programme, budget underspending and the Joint Undertaking's difficulties in evaluating resource consumption (the annual budget figures are presented by members of the JU's ITDs at work package level, while the JU monitors the implementation of activities at the deliverables level).

24. On 14 March 2014, the Commission's Internal Audit Service presented the results of the audit concerning the adequacy and effectiveness of the internal control system with regard to Grant Management and its financial implementation. The conclusion following the audit was that the internal control system in place gave reasonable assurance as to the achievement of the business objectives set by the Joint Undertaking for Grant Management and its financial implementation, except in the case of four important observations and two very important observations¹⁸.

25. Additionally, the IAS performed an IT risk assessment of the common IT infrastructure¹⁹ that the Clean Sky Joint Undertaking shares with the FCH, IMI, Eniac and ARTEMIS Joint Undertakings.

26. 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 provisions of the framework Regulation²⁰ referring to the powers of the Commission's internal auditor.

¹⁸ The very important observations concern the improvements to be made in the formalisation of the procedure for validating project deliverables, and improvements that need to be made to the consolidated ex-ante validation guidelines and checklists for Grants Management and its financial implementation.

¹⁹ The final report dated 22 November 2013 noted the need to formalise IT security policy and include detailed procedures/controls in future contracts with IT service providers.

²⁰ 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.

Monitoring and reporting of research results

27. The Seventh Framework Programme (FP7) Decision²¹ establishes a monitoring and reporting system covering the protection, dissemination and transfer of research results. The Joint Undertaking has developed procedures but this monitoring does not fully meet the provisions of the Decision, in particular as regards the dissemination of the research results and their integration in the Commission system²².

Conflicts of interest

28. On 13 December 2013 the Joint Undertaking adopted the Code of Conduct for the prevention and mitigation of conflicts of interest applicable to private members of the Governing Board. The adoption of the corresponding Code of Conduct for the prevention and mitigation of conflicts of interest applicable to the staff members of the Joint Undertaking and other actors (including experts) was still pending at the time of the audit.

29. The Joint Undertaking has not yet developed a database to record the conflicts of interest, incompatibilities, declarations and related documents.

²¹ Article 7 of Decision No 1982/2006 of the European Parliament and the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) states that the Commission shall 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.

²² See the observation made in the 2012 Annual Progress Report from the Commission to the European Parliament and the Council on the activities of the Joint Technology Initiative Joint Undertakings (SWD (2013) 539 final) with regard to the integration of results achieved in research projects in the Commission's communication and dissemination system.

The Commission's Second Interim Evaluation²³

30. The Commission's Second Interim Evaluation was carried out between early March and the end of October 2013 and assessed the Joint Undertaking in terms of effectiveness, efficiency and research quality.

31. The report contains several recommendations regarding the inadequate number of technical staff to carry out its activities, the need for harmonisation of progress activity reports and technical evaluation reports across the Joint Undertaking's ITDs members and the need for improvements in the procedures for selecting subcontractors. The Joint Undertaking should also better document the course of Grant Agreements, so as to improve overall compliance and performance.

Follow-up of previous observations

32. The Joint Undertaking's business continuity plan was adopted by the Executive Director on 29 November 2013. It covers disaster recovery, immediate steps to be taken thereafter, recovery arrangements and the maintenance of activities. It is due to be updated by the end of 2014.

This Report was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 21 October 2014.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

²³ Second Interim Evaluation of the Clean Sky Joint Undertaking of October 2013.

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 Programme Cooperation; - 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 2013</p>	<p>Budget</p> <p>306 043 097 euro</p> <p>Staff at 31 December 2013</p> <p>24 posts provided for in the establishment plan (18 temporary staff and six contract staff), of which 23 posts were occupied; these were assigned to operational activities (17) and mixed tasks (six).</p>
<p>Activities and services provided in 2013</p>	<p>See the Clean Sky Joint Undertaking's annual activity report 2013 at www.cleansky.eu</p>

Source: Information supplied by the Clean Sky Joint Undertaking