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From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	18 November 2015
To:	Mr Jean ASSELBORN, President of the Council of the European Union
Subject:	Report on the annual accounts of the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2014 together with the Joint Undertaking's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2014.

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 Fuel Cells and Hydrogen Joint Undertaking for the financial year 2014 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/>.



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts of the Fuel Cells and Hydrogen Joint
Undertaking for the financial year 2014

together with the Joint Undertaking's replies

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INTRODUCTION

1. The Joint Undertaking for the implementation of the Joint Technology Initiative on Fuel Cells and Hydrogen (FCH Joint Undertaking), located in Brussels, was set up in May 2008¹ for the period up to 31 December 2017 and was granted its financial autonomy on 15 November 2010. In May 2014², the Council repealed the original Regulation and extended the lifetime of the Joint Undertaking, referred to as the “Fuel Cells and Hydrogen 2 Joint Undertaking” (FCH 2 Joint Undertaking)³, under the Horizon 2020 Framework programme for Research and Innovation⁴ for the period up to 31 December 2024.

2. The objectives of the FCH Joint Undertaking include supporting research, technological development and demonstration activities in the Member States and countries associated with the Seventh Framework Programme⁵ through coordination with industry and research organisations, with a focus on developing market applications and hence facilitating additional industrial efforts towards the rapid deployment of fuel cells and hydrogen technologies. Under Horizon 2020, the objective of the FCH 2 Joint Undertaking is to contribute to the implementation of the Secure, Clean and Efficient Energy Challenge and the Smart, Green and Integrated Transport Challenge and to contribute to the objectives of

¹ Council Regulation (EC) 521/2008 of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking (OJ L 153, 12.6.2008, p. 1) amended by Council Regulation (EU) No 1183/2011 of 14 November 2011 (OJ L 302, 19.11.2011, p. 3).

² Council Regulation (EU) No 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 Joint Undertaking (OJ L 169, 7.6.2014, p. 108).

³ This report refers to the “Fuel Cells and Hydrogen Joint Undertaking” unless it is necessary to distinguish between the two programmes.

⁴ The Horizon 2020 Framework programme for Research and Innovation, adopted by Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104), is the research and innovation programme for 2014-2020 and brings together all existing EU research and innovation funding.

⁵ 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.

the Joint Technology Initiative on Fuel Cells and Hydrogen, through the development of a strong, sustainable and globally competitive fuel cells and hydrogen sector in the Union⁶.

3. The members of the Joint Undertaking are the European Union, represented by the Commission, the New Energy World Industry Grouping (NEW-IG) and the New European Research Grouping on Fuel Cells and Hydrogen (N.ERGHY).

4. The maximum EU contribution to the FCH Joint Undertaking, to cover running costs and research activities, is 470 million euro from the budget of the Seventh Framework Programme (with a maximum of 20 million euro earmarked for administrative costs). The maximum EU contribution to the FCH 2 Joint Undertaking, to cover administrative costs and operational costs, is 665 million euro from the budget of the Horizon 2020 Programme (of which administrative costs must not exceed 19 million euro⁷). The Industry and Research Groupings are expected to contribute 50 % of the administrative costs and should contribute to the programme through in-kind⁸ contributions to the projects funded by the FCH 2 Joint Undertaking and through in-kind contributions to additional activities⁹, outside the work plan of the FCH 2 Joint Undertaking, contributing to the objectives of the FCH Joint Technology Initiative.

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 assessment of key controls of the

⁶ The **Annex** summarises the Joint Undertaking's competences, activities and available resources. It is presented for information purposes.

⁷ The administrative costs of the FCH 2 Joint Undertaking shall not exceed 38 million euro and shall be covered through financial contributions divided equally on an annual basis between the Union and the Members other than the Union.

⁸ Article 13(3) of the Annex to Regulation (EU) No 559/2014 stipulates that the "operational costs of the FCH 2 Joint Undertaking shall be covered through (a) a financial contribution by the Union (b) in-kind contributions by the constituent entities of the Members other than the Union or their affiliated entities participating in the indirect actions, consisting of the costs incurred by them in implementing indirect actions less the contribution of the FCH 2 Joint Undertaking and any other Union contribution to those costs".

⁹ As provided for in Article 4 (2) (b) of the Annex to Regulation (EU) No 559/2014.

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 Fuel Cells and Hydrogen Joint Undertaking, which comprise the financial statements¹⁰ and the reports on the implementation of the budget¹¹ for the financial year ended 31 December 2014 and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

7. In accordance with Articles 16 and 22 of Commission Delegated Regulation (EU) No 110/2014¹², 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 officer¹³, 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

¹⁰ These include the balance sheet and the statement of financial performance, the cash-flow table, the statement of changes in net assets, a summary of the significant accounting policies and other explanatory notes.

¹¹ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

¹² OJ L 38, 7.2.2014, p. 2.

¹³ 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.

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 Council¹⁴ 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.

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.

¹⁴ Article 47 of Regulation (EU) No 110/2014.

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 2014 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

12. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2014 are, in all material respects, legal and regular.

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

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT***Implementation of the budget***

14. The initial and final 2014 budgets adopted by the Governing Board included commitment appropriations of 100,9 and 112,9 million euro and payment appropriations of 72,1 and 97,5 million euro respectively.

15. The utilisation rates for commitment appropriations were 99,5 % and 96 % respectively (98,9 % in 2013). The utilisation rates for payment appropriations were 66,3 % and 74,5 % respectively (56,7 % in 2013), reflecting the deferred payment of project cost claims anticipated in late 2014 to early 2015.

Calls for proposal

16. At 31 December 2014, the FCH Joint Undertaking FP7 programme consisted of 155 grant agreements resulting from seven annual calls organised over the years 2008 to 2013. The first grant agreements under the H2020 programme will be signed in 2015.

17. The average time to grant (TTG) and time to pay pre-financing (TTP) for the FP7 programme were 370 days and 14 days respectively, improving to 280 days and 5 days respectively for the last FP7 programme grant call.

Multiannual funding

18. The FP7 calls for proposals organised in 2008 - 2013 resulted in grant agreements totalling 450 million euro, the maximum EU contribution to the Joint Undertaking for research activities.

OTHER MATTERS

Legal framework

19. The financial rules of the FCH 2 Joint Undertaking were adopted on 30 June 2014 on the basis of the model financial regulation for public-private partnership bodies¹⁵ and taking into account the requirements of Council Regulation (EU) 559/2014 establishing the FCH 2 Joint Undertaking.

Internal audit function and the Commission's Internal Audit Service

20. In accordance with the IAS work plan for the FCH Joint Undertaking for 2014, the FCH Joint Undertaking Internal Audit Capability (IAC) carried out a follow-up audit on 'User access rights in FP7 IT tools' and performed other assurance and consultancy services including assessment of the level of in-kind contributions.

21. The FCH Joint Undertaking was not subject to any audits by the Commission's IAS in 2014. However, the IAS carried out a limited review of the use and dissemination of research results¹⁶. Action plans were drawn up and implemented for previous financial year audits by the FCH IAC and the Commission IAS.

Accounting Officer

22. The Governing Board of the FCH 2 Joint Undertaking appointed the Accounting Officer of the European Commission as Accounting Officer of FCH 2 Joint Undertaking as of 15 July

¹⁵ Regulation (EU) No 110/2014.

¹⁶ See footnote 22.

2014, in accordance with the possibility provided for in the Financial Rules of the FCH 2 Joint Undertaking.

FOLLOW-UP OF PREVIOUS OBSERVATIONS

Monitoring and reporting of project research results

23. As regards the monitoring and reporting of project research results¹⁷, FCH used the European Commission's tools together with its own tools in order to integrate its research results into the Commission's overall reporting system. For the first time, the latest Monitoring report from the Commission on FP7, published in March 2015¹⁸, includes quantitative data on FCH activities¹⁹. As regards qualitative data, since 2011 the Joint Undertaking has produced an annual Programme Review Report²⁰ which aims to evaluate the achievements of the portfolio projects funded by FCH Joint Undertaking against the Joint Undertaking's strategic objectives.

24. The Horizon 2020 legal framework requires specific monitoring of research results, based on quantitative and, where appropriate, qualitative evidence, including progress against performance indicators²¹. In order to meet the requirements of Horizon 2020 and to better contribute to the dissemination of FP7 research results (especially as funded projects come

¹⁷ Paragraphs 21 to 23 of the Court's 2013 report (OJ C 452, 16.12.2014, p. 67).

¹⁸ http://ec.europa.eu/research/evaluations/pdf/archive/fp7_monitoring_reports/7th_fp7_monitoring_report.pdf#view=fit&pagemode=none

¹⁹ In the EC Monitoring Report this information is presented in aggregated values together with the information from the other Joint Technology initiatives.

²⁰ <http://www.fch.europa.eu/sites/default/files/FCH-PPR14-17Mar2015-web%20%283%29.pdf>

²¹ Article 31 of Regulation (EU) No 1291/2013, establishing Horizon 2020 and Annex II (performance indicators) of Council Decision 2013/743/EU (OJ L 347, 20.12.2013, p. 965) of 3 December 2013 establishing the specific programme implementing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020).

to an end)²², cooperation between the Joint Undertaking and the Commission shall be enhanced to improve the reporting and dissemination of research results²³.

Conflicts of interest

25. The Commission is developing a common template for the Joint Undertakings. Meanwhile FCH's procedure remains in force.

The Commission's Second Interim Evaluation

26. As a result of the Commission's Second Interim Evaluation²⁴, an action plan on the recommendations was adopted by the Governing Board on 11 November 2014. Most recommendations have been implemented²⁵.

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 6 October 2015.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

²² In this regard, in May 2014 the Commission's Internal Audit Service finalised a limited Review of the use and dissemination of research results by FCH Joint Undertaking. While acknowledging that the JU has implemented a management and control system as regards the monitoring of the beneficiaries' plans on the use and dissemination of research results, the IAS recommended that FCH JU reinforce the dissemination plan on the central dissemination of research results.

²³ See the Annual Progress Report from the European Commission to the European Parliament and Council on the activities of the JTI JUs (COM(2013) 935).

²⁴ Paragraph 26 of the Court's 2013 report (OJ C 452, 16.12.2014, p. 67).

²⁵ In particular (a) key recommendations on governance, design and management have been taken into account in the Council Regulation 559/2014 establishing the FCH 2 JU and are effectively implemented (such as more resources to programme and knowledge management, accounting services from the Commission); (b) key recommendations on technology monitoring and policy support have been implemented by putting in place a dedicated tool TEMONAS to monitor technology progress and; (c) key recommendations on engagement with Member States are addressed in Council regulation 559/2014 providing for an extended role of the States Representative Group.

Fuel Cells and Hydrogen Joint Undertaking**(Brussels)****Competences and activities**

<p>Areas of Union competence deriving from the Treaty <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 providing for public-private partnerships in the form of Joint Technology Initiatives which could be implemented through Joint Undertakings within the meaning of <i>Article 187 of the TFEU</i> and Regulation (EU) No 1291/2013 of the European Parliament and of the Council ('Horizon 2020') which aims to have a greater impact on research and innovation by combining Horizon 2020 and private sector funds within public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment, and help tackle societal challenges.</p> <p>Council Regulation (EC) No 559/2014 of 6 May 2014 establishing the FCH 2 Joint Undertaking.</p>
<p>Competences of the Joint Undertaking as defined in Council Regulation (EC) No 559/2014</p>	<p>Objectives</p> <p>The Fuel Cells and Hydrogen 2 Joint Undertaking shall have the following objectives:</p> <ul style="list-style-type: none"> (a) to contribute to the implementation of Regulation (EU) No 1291/2013, and in particular the Secure, Clean and Efficient Energy Challenge and the Smart, Green and Integrated Transport Challenge under Annex I, Part III of Decision 2013/743/EU; (b) to contribute to the objectives of the Joint Technology Initiative on Fuel Cells and Hydrogen, through the development of a strong, sustainable and globally competitive fuel cells and hydrogen sector in the Union. <p>2. It shall, in particular aim to:</p> <ul style="list-style-type: none"> (a) reduce the production cost of fuel cell systems to be used in transport applications, while increasing their lifetime to levels which can compete with conventional technologies, (b) increase the electrical efficiency and the durability of the different fuel cells used for power production to levels which can compete with conventional technologies, while reducing costs, (c) increase the energy efficiency of the production of hydrogen mainly from water electrolysis and renewable sources while reducing operating and capital costs, so that the combined system of hydrogen production and conversion using the fuel cell system can compete with the alternatives for electricity production available on the market;

	<p>(d) demonstrate on a large scale the feasibility of using hydrogen to support the integration of renewable energy sources into energy systems, including through its use as a competitive energy storage medium for electricity produced from renewable energy sources;</p> <p>(e) reduce the use of the EU-defined 'Critical raw materials', for instance through low-platinum or platinum-free resources and through recycling or reducing or avoiding the use of rare earth elements.</p>
<p>Governance as defined in Council Regulation (EC) No 559/2014</p>	<p>The bodies of the FCH Joint Undertaking are:</p> <p>1 – The Governing Board</p> <p>The Governing Board is the main decision-making body of the FCH Joint Undertaking.</p> <p>2 – The Executive Director</p> <p>The Executive Director is responsible for the day-to-day management of the Joint Undertaking and is its legal representative. He is accountable to the Governing Board.</p> <p>3 – The Scientific Committee</p> <p>Composed of up to 9 members reflecting a balanced representation of world-class expertise from academia, industry and regulatory bodies. Its tasks are to:</p> <ul style="list-style-type: none"> (a) advise on the scientific priorities to be addressed in the annual work plans; (b) advise on the scientific achievements described in the annual activity report. <p>The external advisory bodies to the FCH Joint Undertaking are:</p> <p>4 – The FCH States Representatives Group</p> <p>It consists of one representative of each Member State and country associated to H2020.</p> <p>The States Representatives Group shall be consulted and, in particular review information and provide opinions on the following matters:</p> <ul style="list-style-type: none"> (a) the programme progress in the FCH 2 Joint Undertaking and the achievement of its targets; (b) the updating of strategic orientation; (c) the links to Horizon 2020; (d) the annual work plans; (e) the involvement of SMEs. <p>The States Representatives Group shall also provide information to and act as an interface with the FCH 2 Joint Undertaking on the following matters:</p> <ul style="list-style-type: none"> (a) the status of relevant national or regional research and innovation programmes and identification of potential areas of cooperation, including deployment of FCH technologies to allow synergies and avoid overlaps; (b) specific measures taken at national or regional level with

	<p>regard to dissemination events, dedicated technical workshops and communication activities.</p> <p>5 – The Stakeholder Forum</p> <p>The SF is an important communication channel for FCH JU activities and is open to all public and private stakeholders and international interest groups in the Member States, associated countries and other countries. It is convened once a year. The SF is informed of the activities of the FCH Joint Undertaking and is invited to provide comments.</p> <p>The internal and external auditors and the discharge authority of the FCH Joint Undertaking are:</p> <p>6 – Internal audit</p> <ul style="list-style-type: none"> – FCH JU Internal Audit Manager (i.e. internal audit capability – IAC); – Commission's Internal Audit Service (IAS). <p>7 – External audit</p> <p>European Court of Auditors.</p> <p>8 – Discharge authority</p> <p>Parliament on a recommendation of the Council.</p>
<p>Resources available to the Joint Undertaking in 2014 <i>FCH Joint Undertaking 2014 final accounts</i></p>	<p>Budget (commitment appropriations)</p> <p>112,0 million euro</p> <p>Staff at 31 December 2014</p> <p>2014 establishment plan of 26 staff posts (24 Temporary members of staff and 2 Contract staff), of which 25 were filled at year-end 2014; these were assigned to support operational activities (18 FTE) and to administrative tasks (7 FTE).</p>
<p>Activities and services provided in 2014</p>	<p>See the FCH JU annual activity report for 2014 at http://www.fch.europa.eu/page/documents</p>

Source: Information supplied by the FCH Joint Undertaking.