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## COVER NOTE

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From:	Mr Klaus-Heiner LEHNE, President of the European Court of Auditors
date of receipt:	28 November 2017
To:	Mr Märt KIVINE, President of the Council of the European Union
Subject:	Report on the annual accounts of the Clean Sky Joint Undertaking for the financial year 2016 together with the Joint Undertaking's reply

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Delegations will find attached the European Court of Auditors' report on the annual accounts of the Clean Sky Joint Undertaking for the financial year 2016.

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

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Encl.: Report on the annual accounts of the Clean Sky Joint Undertaking for the financial year 2016 together with the Joint Undertaking's reply.<sup>1</sup>

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<sup>1</sup> 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  
Clean Sky Joint Undertaking  
for the financial year 2016

together with the Joint Undertaking's reply

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## **INTRODUCTION**

### ***Establishment of the Clean Sky Joint Undertaking***

1. The Joint Undertaking for the implementation of the Joint Technology Initiative in Aeronautics (Clean Sky Joint Undertaking), located in Brussels, was set up in December 2007 under the Seventh Research Framework Programme (FP7) for a period of ten years, and started working autonomously on 16 November 2009<sup>1</sup>. On 6 May 2014, the Council extended the lifetime of the Joint Undertaking for the period up to 31 December 2024<sup>2</sup>.
2. The Clean Sky Joint Undertaking is a public-private partnership for aeronautic research and innovation. The founding members of the Joint Undertaking under the new regulation are the European Union (EU), represented by the Commission, the industrial leaders of the Integrated Technology Demonstrators (ITDs)/ Innovative Aircraft Demonstrator Platforms (IADPs)/ Transverse Areas (TAs) and 'core partners' selected via open and competitive calls<sup>3</sup>. The Associate members of the first phase of the Clean Sky Joint Undertaking will retain their status until completion of their research activities initiated under Regulation (EC) No 71/2008.

### ***Governance***

3. The governance structure of the Clean Sky Joint Undertaking includes the Governing Board, the Executive Director, the States Representatives Group and the Scientific and Technological Advisory Board.

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<sup>1</sup> 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).

<sup>2</sup> Council Regulation (EU) No 558/2014 of 6 May 2014 establishing the Clean Sky 2 Joint Undertaking (OJ L 169, 7.6.2014, p. 77).

<sup>3</sup> As a result of the first call for core partners, 76 new partners joined the programme in 2015, making the membership of the second phase of the Clean Sky programme larger than that of the first phase (66 Associates). In 2015, the Joint Undertaking launched a second call for core partners.

4. The Governing Board is composed of one representative of the Commission on behalf of the Union, one representative of each industrial leader, one representative of the core partner per ITD, one representative of the Associates per ITD and one representative of the core partners per IADP. The Governing Board is the main decision-making body and is responsible for the operations of the Joint Undertaking and oversight of its activities. The Executive Director is responsible for the day-to-day management of the Joint Undertaking.

5. The States Representatives Group is a network of national representatives from EU Member States and other countries which provides advice and opinions on the strategic orientation and operations of the Joint Undertaking. The Scientific and Technological Advisory Board is composed of scientists and engineers, and provides advice on technological, environmental and socio-economic issues.

### ***Objectives***

6. The main objectives of the Clean Sky Joint Undertaking are to improve significantly the environmental impact of aeronautical technologies and to enhance the competitiveness of European aviation.

### ***Resources***

7. The maximum EU contribution to the first phase of the Clean Sky Joint Undertaking's research activities and administrative costs is 800 million euro from the Seventh Research Framework Programme (FP7)<sup>4</sup>. Of this amount, a maximum of 400 million euro is to be allocated to the ITD leaders and up to 200 million euro to the Associated Members. The ITD leaders and Associated Members are to contribute resources at least matching the EU contribution. The remaining amount of at least 200 million euro must be allocated to the core partners selected by means of competitive calls for proposals<sup>5</sup>.

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<sup>4</sup> Article 5(1) of Regulation (EC) No 71/2008.

<sup>5</sup> Article 13(1) of the Statutes of the Clean Sky Joint Undertaking (Annex I of Regulation (EC) No 71/2008).

8. The maximum EU contribution to the second phase of activities is 1 755 million euro, to be paid from Horizon 2020<sup>6</sup>. The leaders and core partners of the Joint Undertaking are to contribute resources of at least 2 193,7 million euro<sup>7</sup>, consisting of at least 1 228,5 million euro of in-kind contributions to the Joint Undertaking's operational activities and at least 965,2 million euro of in-kind contributions for additional activities<sup>8</sup>.

9. The administrative costs for the second phase of the Clean Sky Joint Undertaking (Clean Sky 2 Joint Undertaking (CS2 JU)) are limited to 78 million euro, to be covered through financial contributions divided equally on an annual basis between the EU and the private members<sup>9</sup>.

10. In 2016, the budget for the Clean Sky 2 Joint Undertaking was 287,8 million euro (2015: 246 million euro). At 31 December 2016, the Joint Undertaking had 41 staff (2015: 36)<sup>10</sup>.

#### **OPINION**

11. We have audited:

(a) the accounts of the Joint Undertaking which comprise the financial statements<sup>11</sup> and the reports on the implementation of the budget<sup>12</sup> for the financial year ended 31 December 2016, and

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<sup>6</sup> Article 3(1) of Regulation (EU) No 558/2014.

<sup>7</sup> Article 4(1) of Regulation (EU) No 558/2014.

<sup>8</sup> As provided in Article 4(4) of Regulation (EU) No 558/2014, additional activities are activities outside the work plan of the Joint Undertaking but contributing to the objectives of the Clean Sky Joint Technology Initiative. Under Article 4(4) of the Regulation, the cost of additional activities must be certified by an independent external auditor and are not subject to audit by the Joint Undertaking, the ECA or by any EU body.

<sup>9</sup> Article 15(2) of the Statutes of the Clean Sky Joint Undertaking - Annex I of Regulation (EU) No 558/2014.

<sup>10</sup> Further information about the Joint Undertaking and its activities are available at its website: <http://www.cleansky.eu>.

(b) the legality and regularity of the transactions underlying those accounts, as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

***Opinion on the reliability of the accounts***

12. In our opinion, the accounts of the Joint Undertaking for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Joint Undertaking at 31 December 2016, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally-accepted accounting standards for the public sector.

***Opinion on the legality and regularity of revenue underlying the accounts***

13. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

***Opinion on the legality and regularity of payments underlying the accounts***

14. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

***Responsibilities of management and those in charge of governance***

15. In accordance with Articles 310 to 325 of the TFEU and the Joint Undertaking's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally-accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether

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<sup>11</sup> The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

<sup>12</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Joint Undertaking's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

16. In preparing the accounts, management is responsible for assessing the Joint Undertaking's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

17. Those in charge of governance are responsible for overseeing the entity's financial reporting process.

***Auditor's responsibilities for the audit of the accounts and underlying transactions***

18. Our objectives are to obtain reasonable assurance about whether the accounts of the Joint Undertaking are free from material misstatement and the transactions underlying them are legal and regular and, on the basis of our audit, to provide the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

19. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal control relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions is considered in order to design audit



procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. An audit also includes evaluating the appropriateness of accounting policies used, the reasonableness of accounting estimates made by the management and the overall presentation of the accounts.

20. For revenue, we verify the subsidy received from the Commission and assess the Joint Undertaking's procedures for collecting fees and other income.

21. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments (including those made for the purchase of assets) other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Joint Undertaking accepts the justification by clearing the advance payment, whether in the same year or later.

22. In preparing this report and Opinion, we considered the audit work of the independent external auditor performed on the Joint Undertaking's accounts as stipulated in Article 208(4) of the EU Financial Regulation<sup>13</sup>.

23. The comments which follow do not call the Court's opinions into question.

## **BUDGETARY AND FINANCIAL MANAGEMENT**

### ***Implementation of the 2016 budget***

24. The final 2016 budget available for FP7 and Horizon 2020 programme implementation included commitment appropriations of 310,5 million euro and payment appropriations of 287,8 million euro. The utilisation rates for commitment and payment appropriations were 97,5 % and 87,9 %, respectively. The lower implementation rate for payment appropriations is mainly due to delays in starting Horizon 2020 projects and, in particular, due to the delayed signature of one significant grant agreement with a member of the Joint Undertaking.

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<sup>13</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

### ***Multiannual budget implementation under FP7***

25. Out of the 800 million euro of FP7 funds allocated to the Clean Sky Joint Undertaking, by the end of 2016 the Joint Undertaking had made operational commitments of 784,5 million euro and operational payments of 754,7 million euro. The EU cash contribution to the administrative costs was 13,9 million euro. As the Joint Undertaking is no longer entitled to launch calls for proposals under FP7, the remaining commitments will be used for the payment of final cost claims from members, in line with the overall state of implementation of each ITD<sup>14</sup>.

26. Out of the 800 million euro of in-kind and cash contributions to be made by the other members to the operational activities of the Joint Undertaking, by the end of 2016, the Governing board had validated in-kind contributions of 554,7 million euro and a further 33,5 million euro had been reported by the members. The members' cash contributions to administrative costs were 14,5 million euro.

27. Consequently, at the end of 2016, the total contribution of the members to the FP7 activities of the Joint Undertaking amounted to 602,7 million euro, compared to the EU's cash contribution of 775,2 million euro.

### ***Multiannual budget implementation under Horizon 2020***

28. Out of the 1 755 million euro of Horizon 2020 funds allocated to the Clean Sky Joint Undertaking, by the end of 2016 the Joint Undertaking had made commitments of 694 million euro and payments of 282 million euro (16 % of the allocated funds). The lower level of payments was partly due to delays in negotiating the Horizon 2020 grant agreements.

29. Out of the 1 229 million euro of contributions to be made by the industry members to the operational activities of the Joint Undertaking, the Governing Board had validated in-kind contributions of 39,2 million euro and a further 104,0 million euro had been reported

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<sup>14</sup> See Clean Sky Report on Budgetary and Financial Management 2015, p. 22.

by the end of 2016. The industry members' cash contributions to the administrative costs were 6,4 million euro.

30. Out of the 965,2 million euro of members' contributions to the additional activities of the Joint Undertaking, by the end of 2016, 199,2 million euro had been reported and certified by the members and a further 152,6 million euro had been reported.

31. Consequently, by the end of 2016, the total contributions of the industry members amounted to 348,8 million euro, compared to the EU's cash contributions of 310,2 million euro.

## **INTERNAL CONTROLS**

### ***Internal control framework***

32. The Clean Sky Joint Undertaking has set up ex-ante control procedures based on financial and operational desk reviews, and ex-post audits of grant cost claims. These checks are a key tool for assessing the legality and regularity of the underlying transactions, including the other members' in-kind and cash contributions to the Joint Undertaking. The residual error rates for the ex-post audits reported by the Joint Undertaking at the end of 2016 were 1,51 % for FP7 projects and 0,95 % for Horizon 2020 projects<sup>15</sup>.

### ***Management of Horizon 2020 grants***

33. At the end of 2016 – the third year of Horizon 2020 implementation – the Joint Undertaking had only partially completed the integration of its control systems with the Commission's common Horizon 2020 grant management and monitoring tools.

### ***Monitoring and clearing of pre-financing***

34. At the end of 2016, the Joint Undertaking had not yet cleared any of the pre-financing payments (176 million euro) made to its industrial members for projects under Horizon 2020 grant agreements. Regular clearing of its pre-financing payments against statements of

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<sup>15</sup> Clean Sky Joint Undertaking 2016 Annual Activity Report, pages 123-124.

reported costs from the members would decrease the exposure of the Joint Undertaking to financial risk.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

*For the Court of Auditors*

Klaus-Heiner LEHNE

*President*

Follow-up of previous years' comments

Year	Court's comment	Status of corrective action (Completed / Ongoing / Outstanding / N/A)
<b>2015</b>	<b>Conflicts of interest</b> In July 2015, the Commission issued guidelines to the Joint Undertakings related to rules on conflicts of interest, including a common template for the declaration of absence of a conflict of interest, which should be incorporated by the Joint Undertaking into its procedures.	<b>Completed</b>

### THE JU'S REPLY

28. The lower level of programme execution is the consequence of the specific demonstration programme, for which some complex actions and grants have taken more time to implement.

33. The CS2 JU had decided to continue to use its own dedicated grant management application (Grant Management Tool, GMT) developed under FP7, as some of the required features specific for the CS2 grants were not available in the common Horizon 2020 grant management tools, e.g. the in-kind contribution reporting.

35. The CS2 JU has started to work with the respective EC services to implement the necessary developments for the integration of the GAMs (Grant Agreements for Members) into the Horizon 2020 grant management and reporting tools by the end of 2017. In order to ensure a smooth transition between the two systems, the current tool developed by the JU will continue to be used until the migration has been fully completed. Therefore, it is intended that the 2017 reporting cycle will be done in the GMT and the GAMs will be fully managed by the Horizon 2020 tools from 2018 reporting period onwards.

34. According to Horizon 2020 rules (Article 21 of the H2020 Model Grant Agreement), the pre-financing is only cleared at the final reporting period of the project or before, if the total amount of pre-financing and interim payments exceeds 90% of the maximum grant amount. Until 2016, this general rule was followed by the CS2 JU for the signed Horizon 2020 GAMs. In order to mitigate the financial exposure, the CS2 JU took the initiative in 2017 to clear the pre-financing paid for the period 2014-2016 for the ongoing GAMs. This approach was agreed with the GAM's beneficiaries and is now being applied for the payment of the 2016 cost claims.