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Contents

IV Notices

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Court of Auditors

2014/C 452/01	Summary of results from the Court's 2013 annual audit of the European Research Joint Undertakings	1
2014/C 452/02	Report on the annual accounts of the ARTEMIS Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies	8
2014/C 452/03	Report on the annual accounts of the Clean Sky Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies	17
2014/C 452/04	Report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies	26
2014/C 452/05	Report on the annual accounts of the Innovative Medicines Initiative Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies	35
2014/C 452/06	Report on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2013, together with the Joint Undertaking's replies	44
2014/C 452/07	Report on the annual accounts of the SESAR Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies	58
2014/C 452/08	Report on the annual accounts of the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies	67

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IV

*(Notices)*NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND
AGENCIES

COURT OF AUDITORS

Summary of results from the Court's 2013 annual audit of the European Research Joint Undertakings

(2014/C 452/01)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-6	2
Information in support of the Court's opinions	7	2
Audit results	8-21	3
Opinions on the reliability of the accounts	8	3
Opinions on the legality and regularity of the transactions underlying the accounts ..	9-12	3
Emphasis of matter on the EU contribution to the ITER project costs	13	4
Comments not calling the Court's opinions into question	14	4
Presentation of the accounts	15	4
Budgetary and financial management	16	4
Internal controls	17-21	4
Conclusions	22-23	5

INTRODUCTION

1. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union, the Court has audited the annual accounts for the financial year ended 31 December 2013 and the legality and regularity of the transactions underlying them for seven European Research Joint Undertakings (JUs):

- Fusion for Energy — F4E (ITER) — Development of Fusion Energy,
- Clean Sky — Clean Air Transport Technologies,
- Artemis — Embedded Computing Systems,
- IMI — Innovative Medicines Initiative,
- ENIAC — Nanoelectronics,
- FCH — Fuel Cells and Hydrogen, and
- SESAR — Single European Sky Air Traffic Management Research.

2. Apart from the European Union (represented by the Commission), members of the Joint Undertakings may include various public and private partners who make contributions to the funding of the activities performed by the Joint Undertakings. The Joint Undertakings either follow a bipartite model with the participation of the European Commission and the industry, or a tripartite model with the participation also of the Member States⁽¹⁾. Joint Undertakings play an important role in implementing research policy in specific areas.

3. This summary provides an overview on the results of the Court's annual audits of the Joint Undertakings for the financial year 2013. It aims at facilitating the analysis and comparison of the Court's specific reports on the 2013 annual accounts of the Joint Undertakings. The Court's opinions and comments as well as the Joint Undertakings' replies can be found in the published specific annual reports. This summary is not an audit report or opinion.

4. The Joint Undertakings' total 2013 forecasted budgeted income⁽²⁾ amounted to some 2,2 billion euro (2012: 2,5 billion euro) or about 1,7 % of the 2013 EU general budget (2012: 1,8 %)⁽³⁾. Of the actual amounts received, approximately 686 million euro (2012: 618 million euro) came from the EU general budget (cash contribution from the European Commission) and approximately 134 million euro (2012: 134 million euro) came from the industrial partners and members of the Joint Undertakings.

5. The Joint Undertakings employ 414 (2012: 409) permanent and temporary officials or less than 1 % of total EU officials authorised under the EU general budget (staff establishment plan). Details on the audited Joint Undertakings, their budgets and staff are provided in *Annex I*.

6. Whereas the financial risk related to the Joint Undertakings is limited compared to the total EU budget, the reputational risk for the Union is high: they are a key tool for the implementation of the EU Research strategy and their public-private partnership nature makes them highly visible among the industries they are cooperating with.

INFORMATION IN SUPPORT OF THE COURT'S OPINIONS

7. 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 and an analysis of management representations and of annual activity reports. The 2013 audit placed special emphasis on *ex post* audits.

⁽¹⁾ Bipartite Joint Undertakings are Clean Sky, IMI, FCH and SESAR. Tripartite Joint Undertakings are Artemis and ENIAC. As regards Fusion for Energy-F4E (ITER), the members are Euratom, represented by the European Commission, the Member States of Euratom and other countries which have concluded cooperation agreements with Euratom in the field of controlled nuclear fusion and have expressed their wish to become members (as at 31 December 2013: Switzerland).

⁽²⁾ Forecasted income budget represent commitments appropriations (final budget).

⁽³⁾ The significant decrease noted with respect to 2012 originates mostly from F4E, where the forecasted income budget decreased from 1 524 million euro in 2012 to 1 297 million euro in 2013. This decrease is due to the launching of a major phase of the ITER project in 2012.

AUDIT RESULTS

Opinions on the reliability of the accounts

8. The final accounts of all Joint Undertakings present fairly, in all material respects, their financial position as at 31 December 2013 and the results of their operations and their cash flows for the year then ended, in accordance with the provisions of the applicable Financial Regulations and the accounting rules adopted by the Commission's Accounting Officer.

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

9. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2013 were legal and regular in all material respects for four (F4E, Clean Sky, FCH and SESAR) of the seven Joint Undertakings.

10. As regards the Artemis Joint Undertaking, the audit of project cost claims has been delegated to the national funding authorities (NFAs), under the administrative agreements in force. Artemis received audit reports from the NFAs but did not systematically assess the quality of these audits. Moreover, it had not received information on the audit strategies of all NFAs. It was therefore not in a position to assess whether *ex post* audits provide sufficient assurance as to the legality and regularity of the underlying transactions. As a consequence, the Court concluded that the information available on the implementation of the Joint Undertaking's *ex post* audit strategy is not sufficient to conclude whether this key control tool is functioning effectively⁽⁴⁾. A qualified opinion⁽⁵⁾ was issued for Artemis since there was insufficient appropriate audit evidence on which to base the opinion and the possible effects are considered material but not pervasive⁽⁶⁾.

11. As regards the ENIAC Joint Undertaking, the administrative agreements established between ENIAC and the NFAs of the Member States provide in principle that the NFAs will perform audits on behalf of the Joint Undertaking. The Joint Undertaking's *ex post* audit strategy relies heavily on the NFAs to audit project cost claims. In 2013, the Joint Undertaking carried out a limited review of cost claims but this exercise did not include any audits and did not provide assurance as to the regularity of the cost claims reviewed. As a consequence, the Court concluded that the information available on the implementation of the Joint Undertaking's *ex post* audit strategy was not sufficient to conclude whether this key control tool is functioning effectively⁽⁷⁾. The Court issued a qualified opinion for ENIAC because there was insufficient appropriate audit evidence on which to base the opinion and the possible effects are considered material but not pervasive.

12. The IMI joint Undertaking launched, in accordance with its *ex post* audit strategy, a second batch of 40 *ex post* audits, of which 14 had been completed as of June 2014. The detected error rate resulting from these audits was 2,3 %⁽⁸⁾. A qualified opinion was issued for IMI since there was sufficient appropriate audit evidence on which to base the opinion and the possible effects are considered material but not pervasive⁽⁹⁾.

⁽⁴⁾ In response to this observation, Artemis initiated in 2014 together with the ENIAC Joint Undertaking a common action plan to mitigate this qualified opinion. Three National Funding Authorities had been visited by Artemis by September 2014.

⁽⁵⁾ The Court expresses a qualified opinion when the auditor has obtained sufficient appropriate audit evidence and concludes that misstatements or instances of noncompliance are material, but not pervasive, to the annual accounts or underlying transactions. The Court also expresses a qualified opinion when the auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion, and the possible effects on the annual accounts or underlying transactions of that inability are material but not pervasive (as outlined in paragraphs 11 and 12).

⁽⁶⁾ Pervasive effects are those that, in the auditor's judgment, are not confined to specific elements, accounts or items or, if they are so confined, they represent or could represent a substantial proportion of the financial statements.

⁽⁷⁾ In response to this observation, ENIAC initiated in 2014 together with Artemis a common action plan to mitigate this qualified opinion. Three National Funding Authorities had been visited by ENIAC by September 2014.

⁽⁸⁾ The detected error rate resulting from the previous batch of *ex post* audits was 5,8 %.

⁽⁹⁾ In response to this observation, IMI continued to communicate the errors to the audited beneficiaries and to launch the required follow-up actions. In parallel, IMI has continued to take concrete preventive measures to mitigate the risk of future errors in beneficiaries' cost claims (e.g. the organisation of frequent financial workshops for participants, the regular updating of IMI's Financial Guidelines for participants). Furthermore, IMI has carried on implementing an intensive annual programme of *ex post* audits.

Emphasis of matter on the EU contribution to the ITER project costs⁽¹⁰⁾

13. As regards F4E, the EU contribution to ITER construction phase was valued by the Council in 2010⁽¹¹⁾ at 6,6 billion euro. This amount is subject to significant risks of increase, mainly resulting from changes in the scope of the project deliverables and due to the current schedule which is considered unrealistic. In November 2013, the Joint Undertaking estimated the shortfall until the finalisation of the construction phase of the project to be 290 million euro. The slippage for the construction phase of the project was estimated by the Joint Undertaking at the time of the audit (April 2014) to be at least 30 months. In relation to these risks, the Joint Undertaking has not yet implemented a system at contract level to regularly monitor the cost deviations and has not updated the valuation of the Joint Undertaking contribution to the ITER project beyond the finalisation of the construction phase.

Comments not calling the Court's opinions into question

14. The Court made 55 comments (2012: 45) affecting all Joint Undertakings highlighting matters of importance. An overview of the comments made is provided in *Annex II*. The most frequent comments are summarised below.

Presentation of the accounts

15. As regards F4E, notes to the accounts on 'ITER Procurement Arrangements with the ITER International Organization' (ITER IO) do not disclose the degree of advancement of the works in progress, whereas this information is essential to reflect the status of the activities carried out as regards the procurement arrangements signed with the ITER IO.

Budgetary and financial management

16. Comments under this heading focus on two areas:

- budgetary implementation rate: the budgetary implementation rate for commitment appropriations ranged between 90 % and 100 % and the budgetary implementation rate for payment appropriations ranged between 57 % and 100 %. For Artemis, the latter amounts to 69 % and is mostly explained by delays originating in the administrative arrangements entered into with Member States for the implementation of projects and for FCH (57 %) it results from the postponement of the funding of three projects,
- calls for proposals and the implementation of projects: the average time for the launch of the 2013 call for proposal and the signing of grant agreements was 9 months for Clean Sky (versus 12 months for 2012). As regards Artemis, the current rate of appropriations committed for the calls for proposals represented only 49 % (50,2 % as at 31 December 2012) of the total budget available to cover operational expenditure during the total duration of the Joint Undertaking (10 years from 2007).

Internal controls

17. *Ex post* audits are a key tool for Joint Undertakings to ensure the eligibility and accuracy of costs claimed by beneficiaries and/or partners. All have adopted an *ex post* audit strategy, five of which have contracted out the performance of *ex post* audits to independent external audit firms. In three cases (see paragraphs 10 to 12), the Court issued a qualified opinion on the basis of the inadequacy of the implementation of the *ex post* audit strategy or of the error rate resulting from the performance of the *ex post* audits.

18. As regards F4E, internal control systems are still being developed. In particular, procurement procedures are central to the implementation of the ITER project by F4E. The competitiveness of these procurement procedures needs to be increased. As regards grants, the average number of proposals received was only one per call, as in 2012.

19. The monitoring and reporting of research results is laid down in the seventh framework programme (FP7), which establishes a monitoring and reporting system covering the protection, dissemination and transfer of research results. In the grant agreements signed with members and other beneficiaries, the Joint Undertakings have included specific provisions governing intellectual property rights and the dissemination of research activities and results. Although implementation of these provisions is monitored by the Joint Undertaking at different stages of the funded projects, several Joint Undertakings need to develop further the way the results of this monitoring are reported.

⁽¹⁰⁾ An Emphasis of Matter paragraph is used to draw readers' attention to a matter which is not materially misstated in the accounts, but is of such importance that it is fundamental to users' understanding of the accounts.

⁽¹¹⁾ Council conclusion on ITER status of 7 July 2010 (Ref. 11902/10).

20. The prevention of conflicts of interest is addressed by most Joint Undertakings by the adoption of specific rules and by the development of tools to document all related information. However, Artemis still needs to develop a comprehensive written procedure to deal with conflicts of interest.

21. The Commission's Second Interim Evaluation was performed over 2013 and early 2014. It assessed all Joint Undertakings (except F4E) in terms of relevance, efficiency, effectiveness and research quality. The reports, while positive, also highlighted areas for further improvement.

CONCLUSIONS

22. All Joint Undertakings have produced reliable accounts but three have a qualified opinion on their 2013 accounts in respect of the legality and regularity of the transactions underlying them.

23. There is room to improve procedures, in particular the implementation of the *ex post* audit strategy and, in the case of F4E, cost control mechanisms.

ANNEX I

Joint Undertakings' Income (forecasted income budgets, entitlements established and amounts received) and Staff establishments plans

JOINT UNDERTAKING	Parent DG	Policy area	2013						2012					
			Forecasted income budget ⁽¹⁾	Entitlements established ⁽²⁾	Amounts received ⁽³⁾	Staff establishment plan ⁽⁴⁾	Forecasted income budget ⁽¹⁾	Entitlements established ⁽²⁾	Amounts received ⁽³⁾	Staff establishment plan ⁽⁴⁾				
1 Artemis	DG Connect	Research	32 643 708	32 647 545	20 123 350	15	57 446 787	52 183 934	22 479 013	15				
2 Clean Sky	DG Research and Innovation	Research	306 043 097	227 000 428	124 613 566	24	205 364 690	173 113 201	97 339 799	24				
3 ENIAC	DG Connect	Research	172 696 508	172 608 748	36 529 216	15	128 059 958	127 755 025	15 457 127	15				
4 Fusion for Energy	DG Research and Innovation	Research	1 297 013 166	1 296 952 709	245 002 495	262	1 523 785 957	1 523 345 616	261 239 530	262				
5 Fuel Cells and Hydrogen — FCH	DG Research and Innovation	Research	74 482 039	73 672 484	56 393 265	20	83 311 640	82 843 794	53 615 206	17				
6 Innovative Medicines Initiative — IMI	DG Research and Innovation	Research	255 715 919	254 435 104	125 829 159	36	373 763 361	357 898 596	97 783 960	35				
7 SESAR	DG MOVE	Research	84 222 608	64 066 631	77 535 515	42	156 564 786	148 733 577	69 713 000	41				
Total			2 222 817 045	2 121 382 649	686 026 566	414	2 528 297 179	2 465 873 743	617 627 635	409				

⁽¹⁾ Forecasted income budget represent commitments appropriations (final budget).

⁽²⁾ Entitlements established represent commitments authorised.

⁽³⁾ Amounts received represent cash contribution during the year from the European Commission.

⁽⁴⁾ Final budget.

ANNEX II

Comments made by the Court in 2013

JOINT UNDERTAKING	Budgetary and financial management				Key controls of the JU's supervisory and control systems			Other matters								
	Implementation of the budget	Presentation of the accounts	Calls for proposals	Multilateral Framework Agreement	Internal control systems and accounting systems	Operational procurement and grants	Implementation of ex post audit strategy	Internal audit function and the Commission's Internal Audit Service	Legal framework	Monitoring and reporting of research results	Intellectual property rights and industrial policy	Conflict of interest	The Commission second interim evaluation	Late payment of membership contributions	EU contribution to ITER construction phase	Annual activity report and other
1 Artemis	x		x				x ⁽¹⁾	x	x	x	x	x				
2 Clean Sky	x				x		x	x	x		x	x				
3 ENIAC	x		x				x ⁽¹⁾	x	x		x	x				
4 Fusion for Energy	x	x			x	x			x	x	x	x	x	x ⁽¹⁾	x	x
5 Fuel Cells and Hydrogen — FCH	x		x					x	x		x	x				
6 Innovative Medicines Initiative — IMI	x		x				x ⁽¹⁾	x	x		x	x				
7 SESAR	x			x				x	x		x	x				
Subtotals	7	1	4	1	2	1	3	6	7	6	7	6	1	1	1	1
Total	13				6			36								

⁽¹⁾ These comments are set out in the opinion section of the report.

REPORT

**on the annual accounts of the ARTEMIS Joint Undertaking for the financial year 2013, together with
the Joint Undertaking's replies**

(2014/C 452/02)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-5	9
Information in support of the statement of assurance	6	9
Statement of assurance	7-18	9
Opinion on the reliability of the accounts	12	10
Basis for a qualified opinion on the legality and regularity of the transactions underlying the accounts	13-16	11
Qualified opinion on the legality and regularity of the transactions underlying the accounts	17	11
Comments on budgetary and financial management	19-22	11
Implementation of the budget	19-21	11
Calls for proposals	22	12
Other matters	23-33	12
Legal framework	23	12
Internal audit function and the Commission's Internal Audit Service	24-27	12
Monitoring and reporting of research results	28	12
Conflicts of interest	29-30	13
The Commission's Second Interim Evaluation	31-32	13
Follow-up of previous observations	33	13

INTRODUCTION

1. The ARTEMIS Joint Undertaking, located in Brussels, was set up in December 2007 ⁽¹⁾ for a period of ten years and has worked autonomously since 2009.
2. The main objective of the Joint Undertaking is to define and implement a 'research agenda' for the development of key technologies for embedded computing systems across different application areas, in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications ⁽²⁾.
3. The founding members of the ARTEMIS Joint Undertaking were the European Union, represented by the Commission, certain EU Member States (Belgium, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Hungary, the Netherlands, Austria, Portugal, Romania, Slovenia, Finland, Sweden and the United Kingdom) and ARTEMIS-IA, an association representing companies and other research organisations active in the field of embedded computing systems in Europe. In 2009, the Czech Republic, Cyprus, Latvia and Norway also became members of the Joint Undertaking, and Poland followed suit in 2012.
4. The maximum EU contribution to the Joint Undertaking, to cover running costs and research activities, is 420 million euro to be paid from the budget of the Seventh Framework Programme ⁽³⁾. In addition, ARTEMIS-IA is to make a maximum contribution of 30 million euro to the running costs, while the ARTEMIS Member States are to make in-kind contributions to the running costs (by facilitating the implementation of projects) and provide financial contributions of at least 1,8 times the EU contribution. In-kind contributions are also to be provided by the research organisations participating in projects.
5. The ARTEMIS and ENIAC Joint Undertakings ⁽⁴⁾ were merged to create the Electronic Components and Systems for European Leadership Joint Technology Initiative (ECSEL JTI) ⁽⁵⁾. In addition to combining the ARTEMIS initiative on embedded systems and the ENIAC initiative on nano-electronics, ECSEL JTI will incorporate research and innovation on smart systems. ECSEL JTI started in June 2014 and will run for 10 years. Nevertheless, this report has been produced on a going-concern principle.

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 ARTEMIS Joint Undertaking, which comprise the financial statements ⁽⁶⁾ and the reports on the implementation of the budget ⁽⁷⁾ for the financial year ended 31 December 2013; and
 - (b) the legality and regularity of the transactions underlying those accounts.

⁽¹⁾ Council Regulation (EC) No 74/2008 of 20 December 2007 on the establishment of the ARTEMIS Joint Undertaking to implement a Joint Technology Initiative in Embedded Computing Systems (OJ L 30, 4.2.2008, p. 52).

⁽²⁾ The *Annex* summarises the Joint Undertaking's competences and activities. 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.

⁽⁴⁾ The ENIAC Joint Undertaking was set up by Council Regulation (EC) No 72/2008 of 20 December 2007 (OJ L 30, 4.2.2008, p. 21) to define and implement a 'research agenda' for the development of key competences for nanoelectronics.

⁽⁵⁾ The ECSEL Joint Undertaking was set up by Council Regulation (EU) No 561/2014 of 6 May 2014 (OJ L 169, 7.6.2014, p. 152).

⁽⁶⁾ 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.

⁽⁷⁾ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

The management's responsibility

8. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002⁽⁸⁾, 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 officer⁽⁹⁾, 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 Council⁽¹⁰⁾ 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 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 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 accounting rules adopted by the Commission's accounting officer.

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁹⁾ 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.

⁽¹⁰⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

Basis for a qualified opinion on the legality and regularity of the transactions underlying the accounts

13. The Joint Undertaking's *ex post* audit strategy⁽¹¹⁾, adopted by a Governing Board decision on 25 November 2010 and modified on 20 February 2013, is a key tool⁽¹²⁾ for assessing the legality and regularity of the underlying transactions. The payments made in 2013 relating to certificates of acceptance of costs issued by the national funding authorities of the Member States (NFAs) amounted to 11,7 million euro, or 57 % of the total operational payments.

14. Although the audit of project cost claims has been delegated to the NFAs, the administrative agreements signed with the NFAs do not include practical arrangements for *ex post* audits.

15. The Joint Undertaking received audit reports from the NFAs covering approximately 46 % of the costs related to completed projects. However, the Joint Undertaking did not assess the quality of these audits. Moreover, by the end of March 2014, the Joint Undertaking had not received information on the audit strategies of seven of the 23 NFAs. It was therefore not in a position to assess whether *ex post* audits provide sufficient assurance as to the legality and regularity of the underlying transactions⁽¹³⁾.

16. The information available on the implementation of the Joint Undertaking's *ex post* audit strategy is not sufficient for the Court to conclude whether this key control is functioning effectively.

Qualified opinion on the legality and regularity of the transactions underlying the accounts

17. In the Court's opinion, except for the possible effects of the matter described in the basis for a qualified opinion in paragraphs 13 to 16, the transactions underlying the annual accounts for the year ended 31 December 2013 are, in all material respects, legal and regular.

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

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

19. The initial 2013 budget included commitment appropriations amounting to 68,9 million euro. At the end of the year the Governing Board adopted an amending budget reducing commitment appropriations to 32,6 million euro. While the utilisation rate for operational commitment appropriations was 99,4 % (after the reduction), the rate for payment appropriations was only 69 %.

20. The programme manager's budget implementation estimates for the end of 2013 and the actual payments under the different calls were as follows (in percentage):

	Yearly calls for proposals					
	2008	2009	2010	2011	2012	2013
JU estimates for budget implementation at the end of 2013	100 %	100 %	82,5 %	49,6 %	14,6 %	nil

⁽¹¹⁾ The general financing agreement between the European Commission and the Joint Undertaking states that 'the Joint Undertaking, in its competent board, adopts its *ex post* audit strategy with the aim of providing reasonable assurance on the legality and regularity of the underlying transactions' and 'the *ex post* audit strategy shall be based on examination of procedures and of a sample of transactions for all or a sample of beneficiaries and shall, in particular, adequately reflect the risks involved'.

⁽¹²⁾ Article 12 of Regulation (EC) No 74/2008 states that 'The ARTEMIS Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls' and 'The ARTEMIS Joint Undertaking shall carry out on-the-spot checks and financial audits among the recipients of the ARTEMIS Joint Undertaking's public funding. These checks and audits shall be performed either directly by the ARTEMIS Joint Undertaking or by ARTEMIS Member States on its behalf. ARTEMIS Member States may carry out any other checks and audits among the recipients of their national funding as they deem necessary and shall communicate the results to the ARTEMIS Joint Undertaking.'

⁽¹³⁾ According to the *ex post* audit strategy adopted by the ARTEMIS Governing Board, the Joint Undertaking must assess at least once a year whether the information received from the ARTEMIS Member States provides sufficient assurance as to the regularity and legality of the executed transactions.

	Yearly calls for proposals					
	2008	2009	2010	2011	2012	2013
Actual payments made at the end of 2013	79 %	63 %	49 %	34 %	10 %	nil

21. The low budget implementation rate is mainly due to the lengthy and complex process for the financial closure of projects.

Calls for proposals

22. The Council Regulation setting up the Joint Undertaking envisaged a maximum total budget of 410 million euro to cover operational expenditure. The current amount of appropriations committed for the calls for proposals accounts for 201 million euro, or 49 % of the total budget.

OTHER MATTERS

Legal framework

23. The new Financial Regulation applicable to the general budget of the Union⁽¹⁴⁾ was adopted on 25 October 2012 and took effect on 1 January 2013⁽¹⁵⁾. However the model financial regulation for public-private partnership bodies referred to in Article 209 of the new Financial Regulation did not enter into force until 8 February 2014⁽¹⁶⁾. Because of the merger into ECSEL Joint Undertaking, the financial rules of the Joint Undertaking have not been amended to reflect these changes.

Internal audit function and the Commission's Internal Audit Service

24. Article 6.2 of the Council Regulation setting up the ARTEMIS Joint Undertaking stipulates that the Joint Undertaking shall have an internal audit capability. However, as at the end of 2013, this had not been set up.

25. The mission charter of the Commission's Internal Audit Service (IAS) was adopted by the Governing Board on 25 November 2010. However, the financial rules of the Joint Undertaking have not been amended to include the provision of the Framework Regulation referring to the powers of the Commission's Internal Auditor.

26. In 2013, the IAS audited the adequacy and effectiveness of ARTEMIS' internal control system with regard to the management of experts. The audit concluded that the current internal control system provides reasonable assurance regarding the achievement of the business objectives set up by ARTEMIS for the management of experts. It also made several important recommendations regarding the adoption of a comprehensive confidentiality policy, the sensitivity of the programme officer's post and the rules for allocation of workload for the remote evaluators.

27. The ARTEMIS, Clean Sky, ENIAC, FCH and IMI Joint Undertakings, were the subject of an IT risk assessment by the IAS of their shared IT infrastructures⁽¹⁷⁾.

Monitoring and reporting of research results

28. The Seventh Framework Programme (FP7) Decision⁽¹⁸⁾ establishes a monitoring and reporting system related to the protection, dissemination and transfer of research results. The Joint Undertaking has developed procedures to monitor the protection and dissemination of research results at different project stages, but this monitoring requires further development to fully meet the provisions of the Decision⁽¹⁹⁾.

⁽¹⁴⁾ 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).

⁽¹⁵⁾ Article 214 of Regulation No 966/2012 with the exemptions referred to.

⁽¹⁶⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽¹⁷⁾ 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.

⁽¹⁸⁾ Article 7 of Decision No 1982/2006/EC 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.

⁽¹⁹⁾ See the observation referring to the integration of results achieved in research projects into the Commission communication and dissemination system, included 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).

Conflicts of interest

29. The Joint Undertaking does not have a comprehensive written procedure to deal with conflicts of interest.

30. There is a need for a clear definition of what should be considered a conflict of interest, a database regularly updated to include all information related to conflicts of interest, a procedure for managing them and a mechanism for dealing with breaches of the policy.

The Commission's Second Interim Evaluation ⁽²⁰⁾

31. The Commission's Second Interim Evaluation, carried out from September 2012 to February 2013, assessed the ARTEMIS and ENIAC Joint Undertakings in terms of relevance, effectiveness, efficiency and research quality.

32. The report was issued in May 2013 and contained several recommendations to the ARTEMIS Joint Undertaking, in particular regarding the efficiency of project reviews, measures to be taken to improve the match of the project portfolio to strategic European aims, and the appropriate metrics for measuring the impact and success of ARTEMIS projects.

Follow-up of previous observations

33. The Disaster Recovery Plan for the Joint Undertakings for the common IT infrastructure has not yet been approved. In the meantime, the ARTEMIS Joint Undertaking has adopted measures at its own level in order to deal with emergency situations.

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

⁽²⁰⁾ Second Interim Evaluation of the ARTEMIS and ENIAC Joint Technology Initiatives of May 2013.

ANNEX

ARTEMIS 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 74/2008 of 20 December 2007 on the establishment of the 'ARTEMIS Joint Undertaking' to implement a Joint Technology Initiative.</p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Regulation (EC) No 74/2008)</i></p>	<p>Objectives</p> <ul style="list-style-type: none"> — The Joint Undertaking shall contribute to the implementation of the Seventh Framework Programme by defining and implementing significant parts of the ARTEMIS Strategic Research Agenda for the development of key technologies in the field of embedded computing systems, by creating a sustainable public-private partnership and leveraging and increasing private and public investment in the sector of embedded systems in Europe. — The JU aims to achieve effective coordination and synergy of resources and funding from the industry, the Framework Programme, national R & D programmes and intergovernmental R & D schemes, thus contributing to strengthening Europe's future growth, competitiveness and sustainable development. — ARTEMIS seeks to foster collaboration between all stakeholders such as industry, including small and medium-sized enterprises (SMEs), national or regional authorities, academic and research centres, pulling together and focusing the research effort. — The JU adopts a commonly agreed research agenda closely following the recommendations of the Strategic Research Agenda developed by the ARTEMIS Technology Platform. This Research Agenda identifies and regularly reviews research priorities for the development and adoption of key technologies for embedded computing systems across different application areas in order to strengthen European competitiveness and allow the emergence of new markets and applications important to society. — The JU will support R & D activities through open and competitive calls for proposals published on a yearly basis, to attract the best European research ideas and capacities in the field of embedded computing systems. Proposals submitted to ARTEMIS JU calls undergo a technical evaluation and selection process carried out with the assistance of independent experts. This process ensures that allocation of the Joint Undertaking's public funding follows the principles of equal treatment, excellence and competition.
<p>Governance</p>	<p>The JU's governing body is the Governing Board. The executive team is led by an Executive Director, while industry (which includes large and small enterprises, as well as academia and research institutes) is represented by the ARTEMIS Industry Association (ARTEMIS-IA). ARTEMIS-IA provides the chairperson of the Governing Board and the members of the Industry and Research Committee (IRC), which is responsible for the technical work programme. The public sector (participating Member States and the European Commission) are individually represented on the Governing Board and the Public Authorities Board (PAB), which is responsible for financial matters.</p>

Resources available to the Joint Undertaking in 2013	Budget 30 343 708 euro for commitments. 30 000 000 euro for payments (operational). Staff at 31 December 2013 15 posts provided for in the establishment plan (8 temporary staff and 7 contract staff); 13 posts were occupied and assigned as follows: operational activities (8); administrative tasks (5); mixed tasks (0).
Activities and services provided in 2013	See the Joint Undertaking's annual activity report for 2013 at http://www.artemis-ju.eu/reference_documents

Source: Information supplied by the ARTEMIS Joint Undertaking.

THE JOINT UNDERTAKING'S REPLIES

14. 15. 16. ARTEMIS submits a common action plan with ENIAC to mitigate this qualified opinion:

1. Visit to National Funding Authorities (NFA): visits took place already in Germany, Belgium and France, followed by additional documentation; the assessment reports are in the process of being elaborated. The results so far are as follows:

- Germany (15,9 % of the EU grants in ARTEMIS): well documented system, with sharp separation of responsibilities and multiple levels of control. Germany gains assurance by using an *ex post* 'in-depth verification' procedure applied at the end of the indirect action. According to our preliminary assessment, the *ex post* 'in-depth verification' procedure corresponds to the international standards. In 2013, this procedure has been applied to a sample of 120 operations out of the total of 424 operations (28,3 %) resulting in an error rate of less than 1 %. Ongoing activities: a few aspects of the procedure are in the process of being clarified before a final conclusion on the assessment, we engaged in a discussion with regard to the exchange on the sampling information that would allow the results to be consolidated with similar results from other countries. This shall be concluded before the end of 2014.
- Belgium (3,25 % of the EU grants in ARTEMIS): well documented procedure, with clear separation of responsibilities and multiple levels of control. Belgium gains assurance by using an 'in-depth verification' procedure applied at the end of the indirect action. According to our assessment, this procedure shall generate a level of assurance equivalent with the audits executed in line with the prevailing international standards. Belgium submits all ARTEMIS and ENIAC projects (100 %) to an *ex ante* 'in-depth verification', prior to executing the final payments. Belgium performs *ex post* audits only with respect to procedures, in order to improve the system. Consequently, the assurance system does not yield any residual error rate (or it can be considered that the error rate is zero).
- France (9,93 % of the EU grants in ARTEMIS): the system relied on 100 % verifications for all actions started before 2011, when France introduced a more resource-efficient system with clear separation of responsibilities and multiple levels of control based on statistical *ex post* audits. According to our preliminary assessment, the *ex post* 'in-depth verification' procedure corresponds to international standards. France will gain assurance by using an *ex post* auditing procedure applied at the end of the indirect action. The first actions started under the new system will approach closure in 2015, therefore France could not provide statistical information yet.

Further exchanges are planned with the Netherlands (13,86 % of the EU grants in ARTEMIS) and Austria (8,11 % of the EU grants in ARTEMIS).

2. The auditee invited the auditing authorities in the ARTEMIS/ENIAC Member States, the European Commission auditors and the European Court of Auditors, to a workshop that took place on 1 October 2014, to present their systems for gaining assurance and exchange best practices, in an effort to stimulate convergence and define procedures compatible with the national systems.

29. 30. We thank the Court for raising this point and it will be addressed in the procedures of the ECSEL Joint Undertaking

REPORT**on the annual accounts of the Clean Sky Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies**

(2014/C 452/03)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-4	18
Information in support of the statement of assurance	5	18
Statement of assurance	6-13	18
Opinion on the reliability of the accounts	11	19
Opinion on the legality and regularity of the transactions underlying the accounts ...	12	19
Comments on budgetary and financial management	14-16	19
Implementation of the budget	14-16	19
Comments on key controls of the Joint Undertaking's supervisory and control systems ..	17-20	20
Other matters	21-32	20
Legal framework	21	20
Internal audit function and the Commission's Internal Audit Service	22-26	21
Monitoring and reporting of research results	27	21
Conflicts of interest	28-29	21
The Commission's Second Interim Evaluation	30-31	21
Follow-up of previous observations	32	22

INTRODUCTION

1. The Clean Sky Joint Undertaking, located in Brussels, was set up in December 2007 ⁽¹⁾ 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 deployment ⁽²⁾. 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 Programme ⁽³⁾. 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 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 statements ⁽⁴⁾ and the reports on the implementation of the budget ⁽⁵⁾ 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 2343/2002 ⁽⁶⁾, 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 officer ⁽⁷⁾, 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.

⁽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.

⁽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.

⁽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.

- (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 Council ⁽⁸⁾ 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.

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 euro ⁽⁹⁾. 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 agreements ⁽¹⁰⁾.

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

⁽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.

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 Undertaking⁽¹¹⁾, the other members of the Joint Undertaking contribute resources of at least 600 million euro, including their contributions to cover running costs⁽¹²⁾.

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 euro⁽¹³⁾.

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.

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 2013⁽¹⁵⁾. However, the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 did not enter into force until 8 February 2014⁽¹⁶⁾. The financial rules of the Joint Undertaking were amended on 3 July 2014 to reflect these changes.

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

⁽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.

⁽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⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

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 Planning ⁽¹⁷⁾. At the time of the audit, the implementation of these actions was not fully completed.

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 observations ⁽¹⁸⁾.

25. Additionally, the IAS performed an IT risk assessment of the common IT infrastructure ⁽¹⁹⁾ 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 Regulation ⁽²⁰⁾ referring to the powers of the Commission's internal auditor.

Monitoring and reporting of research results

27. The Seventh Framework Programme (FP7) Decision ⁽²¹⁾ 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 system ⁽²²⁾.

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.

The Commission's Second Interim Evaluation ⁽²³⁾

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.

⁽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).

⁽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 19 November 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.

⁽²¹⁾ Article 7 of Decision No 1982/2006/EC 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.

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

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

ANNEX

Clean Sky Joint Undertaking (Brussels)**Competences and activities**

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>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>
Competences of the Joint Undertaking <i>(Council Regulation (EC) No 71/2008)</i>	Objectives <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.
Governance	<p>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	Budget 306 043 097 euro Staff at 31 December 2013 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).
Activities and services provided in 2013	<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.

THE JOINT UNDERTAKING'S REPLIES

14. The JU has improved its budget implementation in 2013. The remaining delays, while partly attributable to the delay in GAP⁽¹⁾ signatures are also related to the actual re-orientation of some of the operational activities as the research work continues. When certain milestones are not achieved on time, this can be due to normal contingencies and setbacks of some research activities, for which more time and effort is needed within the ITDs but after the 2012 reporting period. This is part of the challenge managed by the JU for such a large-scale and complex programme.

16. The European Union committed amount will always be higher than the private members' resources as the latter only takes into account the validated⁽²⁾ cash contribution — while the (EU) commitment covers some multiannual grant agreements not yet fully implemented. It can also be noted, that the European Commission had the obligation to commit the full programme value before the end of 2013 due to it being the last year of the FP7 programme. The JU is making the commitment with the private members once the technical activity foreseen for the coming period(s), is agreed by the JU through the grant agreements. The details of this activity for the last years of the programme will only be finalized in 2015 and therefore is not yet committed or validated.

17. A specific function for the ex post audit exercise was developed in GMT in April 2014. This function will be further enhanced to allow the integration of ex post audit data in the system this year.

18. Following the developments already made during the first half of 2014, a new release of GMT will be implemented by end of this year and will fix several of the weaknesses identified. This will include, in particular, the in-depth review of the function allowing the financial and project officers to provide comments within the validation workflow.

19. With respect to the ex-ante control of the validated commitment, the two functions (Financial Verifier Agent and Authorising Officer) were taken exceptionally under the responsibility of the Head of Administration and Finance which was acting as a back-up of the Authoring Officer during the annual leave of the Executive Director. As CS is a small team, during the annual leave of many actors, the absence of segregation of duties can happen in exceptional cases.

In this respect and in order to ensure the sound functioning of the control system, the JU has updated the financial back-up system by introducing new actors to perform the roles of financial verifier and authorising officer by delegation and is now closely monitoring the continuity of operations during absences. It should be however noted, that even in these cases, the initiation and verification/authorisation functions are kept separate. The single case relating to the absence of the assessment report has since been rectified in the GMT tool.

20. The Joint Undertaking takes note of the weaknesses identified and will endeavor to further insist on consistency of application of the applicable rules and procedures. With regard to the delays in submission of cost claims, the JU is monitoring this issue and in all cases had issued reminders and where appropriate had taken follow-up actions to insist on this reporting. It will endeavor to improve this part of the process further during 2014.

21. No comment.

22. The final audit report has been signed on 26th March 2014 and has been brought to the attention of the Chair of the Clean Sky Governing Board and Executive Director. Actions have been agreed with the JU's management to mitigate the 4 very important and 4 important findings. The implementation of the actions will be monitored by the Internal Audit Officer in the course of the year 2014.

23. For the 4 important recommendations of the IAS, the JU has continued to implement the actions according to the agreed timetable. The implementation is still ongoing.

⁽¹⁾ GAP is 'Grant agreement for Partners' — at least 200 million euro is allocated to partner activities through the calls for proposals of the Clean Sky programme; GAM is 'Grant agreement for Members' — a maximum of 600 million euro is allocated to the members' of Clean Sky research activities.

⁽²⁾ The JU implemented a system which ensures that anytime when EU cash contribution is validated, the related 50 % in-kind contribution is provided by the industry.

24. The implementation of the actions regarding the 2 very important recommendations is almost complete. Guidance documents for the validation of cost claims for GAMs have been further developed for Financial Officers and Project Officers, checklists have been further improved and a template for the technical assessment report of the annual reporting exercise for GAMs has been developed and disseminated to the POs. Concerning the approval of deliverables from Partners, a clarification on role and tasks of the Topic Managers as support for the JU's Financial Officers has been integrated in the CSJU Management Manual.

25. Clean Sky JU has developed an action plan to address the recommendations of the IAS IT Risk Assessment and will implement these actions by year end 2014.

26. The provisions of the presently applicable Framework Regulation referring to the powers of the Commission's internal auditor have been applied by CSJU in practical terms since 2011 and are now integrated in the newly adopted Financial Rules of the JU.

27. The JU has taken note of the Court's findings and has updated its monitoring tools as a response to this already in 2014. In the meantime, it has requested and received consolidated results from the private members in this regard including their dissemination plans. The JU is using the Commission system CORDA for publishing summaries of GAP projects and these are already online. In addition, 4 out of 7 GAM annual report summaries from 2013 are already available on the JU website. The remaining 3 will be available by mid-September 2014.

28. — 29. New rules have been adopted by the Governing Boards of all Jus regarding confidentiality and conflict of interest in early July 2014 following a model proposed by the European Commission. In order to keep a register of the Clean Sky Governing Board declarations, the JU will establish a register on conflicts of interest, incompatibilities and other related documents and will set up an electronic database to monitor this. This will be implemented by the end of the year 2014.

At the time of the audit, the database for staff did not exist. It is envisaged to have it populated by end of October 2014. The database will allow the JU to update it where appropriate and be able to dispose of all information and elements to be considered in case of a potential case of conflict of interest and take appropriate measures.

30. — 31. The JU prepared a summary of the SWOT analysis that was performed by the evaluators and their recommendations for the GB meeting in December 2013. The GB agreed with the recommendations and asked the JU to follow up the implementation of relevant items. An action plan is being followed by JU management. Most of the implementing actions will go through the Annual Reviews, the Management Manual, GAMs or GB rules of procedure. The JU will also take the lessons learned from this assessment for an improved management of both programmes.

Concerning the staffing situation, as reported in both the Annual Implementation Plan 2012 and 2013 and in the Annual Activity Reports 2012 and 2013, the JU continued not to be at the staffing level needed to perform all expected tasks from either a technical or financial point of view. Since the adoption of the new establishment plan in July 2014 the JU will be allowed to recruit 18 new posts — of which the majority will be dedicated to technical roles. This will enable the JU to improve overall compliance and performance of grant agreements going forward.

REPORT
on the annual accounts of the ENIAC Joint Undertaking for the financial year 2013, together with the
Joint Undertaking's replies
(2014/C 452/04)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-5	27
Information in support of the statement of assurance	6	27
Statement of assurance	7-19	27
Opinion on the reliability of the accounts	12	28
Basis for a qualified opinion on the legality and regularity of the underlying transactions	13-17	29
Qualified opinion on the legality and regularity of the transactions underlying the accounts	18	29
Comments on budgetary and financial management	20-21	29
Implementation of the budget	20	29
Calls for proposals	21	29
Other matters	22-29	30
Legal framework	22	30
Internal audit function and the Commission's Internal Audit Service	23-24	30
Monitoring and reporting of research results	25	30
Conflicts of interest	26-27	30
The Commission's Second Interim Evaluation	28-29	30

INTRODUCTION

1. The European Joint Undertaking for the implementation of the Joint Technology Initiative on Nanoelectronics (ENIAC Joint Undertaking), located in Brussels, was set up in December 2007 ⁽¹⁾ for a period of 10 years and has worked autonomously since 2010.
2. The main objective of the Joint Undertaking is to define and implement a 'research agenda' for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications ⁽²⁾.
3. The founding members of the Joint Undertaking are the European Union, represented by the Commission, certain EU Member States (Belgium, Germany, Estonia, Ireland, Greece, Spain, France, Italy, the Netherlands, Poland, Portugal, Sweden and the United Kingdom) and the Association for European Nanoelectronics Activities (AENEAS). Other Member States and associated countries, as well as any other country or legal entity capable of making a substantial financial contribution to the achievement of the Joint Undertaking's objectives, may become members of the ENIAC Joint Undertaking.
4. The maximum EU contribution to the ENIAC Joint Undertaking, to cover running costs and research activities, is 450 million euro to be paid from the budget of the Seventh Framework Programme ⁽³⁾. AENEAS is to make a maximum contribution of 30 million euro to the running costs of the Joint Undertaking. ENIAC Member States are to make in-kind contributions to the running costs (by facilitating the implementation of projects), and to provide financial contributions of at least 1,8 times the EU contribution. Research organisations participating in projects are also to provide in-kind contributions, which must be at least equal to the combined contributions of the Commission and the Member States.
5. The ENIAC and ARTEMIS Joint Undertakings ⁽⁴⁾ were merged to create the Electronic Components and Systems for European Leadership Joint Technology Initiative (ECSEL JTI) ⁽⁵⁾. In addition to combining the ENIAC initiative on nanoelectronics and the ARTEMIS initiative on embedded systems, ECSEL JTI will also incorporate research and innovation on smart systems. ECSEL JTI started in June 2014 and will run for 10 years. Nevertheless this report has been produced on a going-concern principle.

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 ENIAC Joint Undertaking, which comprise the financial statements ⁽⁶⁾ and the reports on the implementation of the budget ⁽⁷⁾ for the financial year ended 31 December 2013, and
 - (b) the legality and regularity of the transactions underlying those accounts.

⁽¹⁾ Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking (OJ L 30, 4.2.2008, p. 21).

⁽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.

⁽⁴⁾ ARTEMIS Joint Undertaking was set up in Council Regulation (EC) No 74/2008 of 20 December 2007 (OJ L 30, 4.2.2008, p. 52) to define and implement a 'research agenda' for the development of key technologies for embedded computing systems.

⁽⁵⁾ The ECSEL Joint Undertaking was set up by Council Regulation (EU) No 561/2014 of 6 May 2014 (OJ L 169, 7.6.2014, p. 152).

⁽⁶⁾ 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.

⁽⁷⁾ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

The management's responsibility

8. In accordance with Articles 33 and 43 of Commission Regulation (EC, Euratom) No 2343/2002⁽⁸⁾, 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 officer⁽⁹⁾, 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 Council⁽¹⁰⁾ 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 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 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 accounting rules adopted by the Commission's accounting officer.

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁹⁾ 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.

⁽¹⁰⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

Basis for a qualified opinion on the legality and regularity of the underlying transactions

13. The Joint Undertaking's *ex-post* audit strategy ⁽¹¹⁾ was adopted by a Governing Board decision on 18 November 2010 and is a key tool ⁽¹²⁾ for assessing the legality and regularity of the underlying transactions. The payments made in 2013 against certificates of acceptance of costs issued by the national funding authorities (NFAs) of the Member States amounted to 17 million euro, which represents 50 % of the 34,4 million euro in operational payments.

14. The administrative agreements established between the Joint Undertaking and the NFAs of the Member States provide in principle that the NFAs will perform audits on behalf of the Joint Undertaking. The Joint Undertaking's *ex-post* audit strategy relies heavily on the NFAs to audit project cost claims.

15. In 2013, the audits performed by NFAs covered 32 % of beneficiaries from the 2008 call 1, representing 61 % of accepted costs. However, the Joint Undertaking did not assess the quality of these audits.

16. The Joint Undertaking itself carried out a limited review of cost claims ⁽¹³⁾ and concluded in its annual activity report that the error rate is below 2 %. This limited review is not sufficient to give assurance on the error rate reported by the Joint Undertaking.

17. The Court is unable to conclude whether the *ex-post* audit key control is functioning effectively.

Qualified opinion on the legality and regularity of the transactions underlying the accounts

18. In the Court's opinion, except for the possible effects of the matter described in the basis for a qualified opinion in paragraphs 16 to 17, the transactions underlying the annual accounts of the Joint Undertaking for the financial year ended 31 December 2013 are, in all material respects, legal and regular.

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

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

20. The initial 2013 operational budget included commitment appropriations amounting to 115,6 million euro and payment appropriations amounting to 59,7 million euro. At the end of the year the Governing Board adopted an amending budget increasing commitment appropriations to 170 million euro ⁽¹⁴⁾ and decreasing payment appropriations to 36,1 million euro. The implementation rate for operational commitment appropriations was 100 % and was 95 % for payment appropriations.

Calls for proposals

21. The last two calls for proposals were launched in 2013 and enabled the Joint Undertaking to use the remaining 170 million euro.

⁽¹¹⁾ The *ex-post* audit strategy states that the Joint Undertaking 'shall seek sufficient information with respect to the *ex-post* audit procedure applied in the ENIAC Member States to perform an assessment of the national procedures with respect to their suitability to provide sufficient assurance with respect to the regularity and the legality of the transactions related to the ENIAC Joint Undertaking projects'.

⁽¹²⁾ Article 12 of Regulation (EC) No 72/2008 states that it 'shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls' and that it 'shall carry out on-the-spot checks and financial audits among the recipients of the ENIAC Joint Undertaking's public funding. These checks and audits shall be performed either directly by the ENIAC Joint Undertaking or by ENIAC Member States on its behalf.'

⁽¹³⁾ The limited review exercise consisted of inviting the NFAs to confirm a sample of cost claims.

⁽¹⁴⁾ The Joint Undertaking saved 4,4 million euro of the authorised amount (10 million euro) to cover running costs and transferred it to the operational budget.

OTHER MATTERS**Legal framework**

22. The new Financial Regulation applicable to the general budget of the Union⁽¹⁵⁾ was adopted on 25 October 2012 and took effect from 1 January 2013⁽¹⁶⁾. However, the model financial regulation for public-private partnership bodies referred to in Article 209 of the new Financial Regulation did not enter into force until 8 February 2014⁽¹⁷⁾. Because of the merger into ECSEL Joint Undertaking, the financial rules of the Joint Undertaking have not been amended to reflect these changes.

Internal audit function and the Commission's Internal Audit Service

23. In 2013, the Commission's Internal Audit Service audited the adequacy and effectiveness of the Grant Management process and concluded that the procedures in place are providing enough assurance. The two main recommendations included in the report, dealing with the setting up of a documented process for selecting experts and control over access rights, were addressed by the Joint Undertaking.

24. ENIAC along with the Clean Sky, ARTEMIS, FCH and IMI Joint Undertakings was the subject of an IT Risk Assessment on the common IT infrastructures they share by the Commission Internal Audit Service (IAS)⁽¹⁸⁾.

Monitoring and reporting of research results

25. The Seventh Framework Programme (FP7) establishes a monitoring and reporting system related to the protection, dissemination and transfer of the research results⁽¹⁹⁾. The Joint Undertaking has developed procedures to monitor the protection and dissemination of research results at different stages of the projects, but this monitoring requires further development to fully meet the provisions of the Decision⁽²⁰⁾.

Conflicts of interest

26. ENIAC has set up comprehensive measures to prevent conflicts of interest and published them on its website.

27. Further improvements should be considered such as setting up a database to include all information related to conflicts of interest.

The Commission's Second Interim Evaluation⁽²¹⁾

28. The Commission's Second Interim Evaluation was carried out from September 2012 to February 2013 to assess the ENIAC and ARTEMIS Joint Undertakings in terms of relevance, effectiveness, efficiency and research quality.

29. The report was issued in May 2013 and contained several recommendations to the ENIAC Joint Undertaking, in particular regarding the efficiency of the project reviews, the measures to be taken to improve the match of the project portfolio to strategic European aims and the appropriate metrics for measuring the impact and success of ENIAC projects.

⁽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⁾ Article 214 of Regulation (EU, Euratom) No 966/2012 with the exemptions referred to.

⁽¹⁷⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽¹⁸⁾ 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.

⁽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) 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.

⁽²⁰⁾ See the observation referring to the integration of results achieved in research projects into the Commission's communication and dissemination system, included 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).

⁽²¹⁾ Second Interim Evaluation of the ARTEMIS and ENIAC Joint Technology Initiatives of May 2013.

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
Vitor Manuel da SILVA CALDEIRA
President

ANNEX

ENIAC 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 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking.</p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Regulation (EC) No 72/2008)</i></p>	<p>Objectives</p> <p>The ENIAC Joint Undertaking contributes to the implementation of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and the theme 'Information and Communication Technologies' of the specific 'Cooperation' programme implementing the Seventh Framework Programme (2007-2013) of the European Community for research, technological development and demonstration activities. It shall, in particular:</p> <ul style="list-style-type: none"> — define and implement a research agenda for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications; — support the activities required for the implementation of the research agenda (R&D activities), notably by awarding funding to participants in selected projects following competitive calls for proposals; — promote a public-private partnership aiming at mobilising and pooling Community, national and private efforts, increasing overall R&D investments in the field of nanoelectronics, and fostering collaboration between the public and private sectors; — ensure the efficiency and durability of the JTI on nanoelectronics; — achieve synergy and coordination of European R&D efforts in the field of nanoelectronics including the progressive integration into the ENIAC Joint Undertaking of the related activities in this field currently implemented through intergovernmental R&D schemes (EUREKA).
<p>Governance</p>	<p>The JU's governing body is the Governing Board. The executive team is led by an Executive Director. Industry is represented in the Industry and Research Committee and by the association AENEAS as founding member. The Commission, representing the Union, the Member States and associated countries make up the Public Authorities Board.</p>
<p>Resources available to the Joint Undertaking in 2013</p>	<p>Budget</p> <p>172 608 748,19 euro for commitments</p> <p>36 609 726,23 euro for payments</p> <p>Staff at 31 December 2013</p> <p>15 posts provided for in the establishment plan (7 temporary staff and 8 contract staff), of which 15 posts were occupied; these were allocated to: operational activities (6); administrative tasks (5); mixed tasks (4).</p>

Activities and services provided in 2013See the ENIAC Joint Undertaking annual activity report for 2013 at www.eniac.eu

Source: Information supplied by the ENIAC Joint Undertaking.

THE JOINT UNDERTAKING'S REPLIES

14. 15. 16. ENIAC submits a common action plan with ARTEMIS to mitigate this qualified opinion:

1. Visit NFA: visits took place already in Germany, Belgium and France, followed by additional documentation; the assessment reports are in the process of being elaborated. The results so far are as follows:

- Germany (15,9 % of the EU grants in ENIAC): well documented system, with sharp separation of responsibilities and multiple levels of control. Germany gains assurance by using an ex-post 'in-depth verification' procedure applied at the end of the indirect action. According to our preliminary assessment, the ex-post 'in-depth verification' procedure corresponds to the international standards. In 2013, this procedure has been applied to a sample of 120 operations out of the total of 424 operations (28,3 %) resulting in an error rate of less than 1 %. Ongoing activities: a few aspects of the procedure are in the process of being clarified before a final conclusion on the assessment, we engaged in a discussion with regard to the exchange on the sampling information that would allow the results to be consolidated with similar results from other countries. This shall be concluded before the end of 2014.
- Belgium (4,8 % of the EU grants in ENIAC): well documented procedure, with clear separation of responsibilities and multiple levels of control. Belgium gains assurance by using an 'in-depth verification' procedure applied at the end of the indirect action. According to our assessment, this procedure shall generate a level of assurance equivalent with the audits executed in line with the prevailing international standards. Belgium submits all ARTEMIS and ENIAC projects (100 %) to an ex-ante 'in depth verification', prior to executing the final payments. Belgium performs ex-post audits only with respect to procedures, in order to improve the system. Consequently, the assurance system does not yield any residual error rate (or it can be considered that the error rate is zero).
- France (35,8 % of the EU grants in ENIAC): the system relied on 100 % verifications for all actions started before 2011, when France introduced a more resource-efficient system with clear separation of responsibilities and multiple levels of control based on statistical ex-post audits. According to our preliminary assessment, the ex-post 'in-depth verification' procedure corresponds to international standards. France will gain assurance by using an ex-post auditing procedure applied at the end of the indirect action. The first actions started under the new system will approach closure in 2015, therefore France could not provide statistical information yet.

Further exchanges are planned with the Netherlands (19,6 % of the EU grants in ENIAC) and Austria (5,1 % of the EU grants in ENIAC).

2. The auditee invited the auditing authorities in the ARTEMIS/ENIAC Member States, the European Commission auditors and the European Court of Auditors, to a workshop that will take place on 1 October 2014, to present their systems for gaining assurance and exchange best practices, in an effort to stimulate convergence and define procedures compatible with the national systems.

REPORT

on the annual accounts of the Innovative Medicines Initiative Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies

(2014/C 452/05)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-5	36
Information in support of the statement of assurance	6	36
Statement of assurance	7-15	36
Opinion on the reliability of the accounts	12	37
Basis for a qualified opinion on the legality and regularity of the transactions underlying the accounts	13	37
Qualified opinion on the legality and regularity of the transactions underlying the accounts	14	38
Comments on budgetary and financial management	16-18	38
Implementation of the budget	16-17	38
Calls for proposals	18	38
Other matters	19-27	38
Legal framework	19	38
Internal audit function and the Commission's Internal Audit Service	20-21	38
Monitoring and reporting of research results	22	39
Conflicts of interest	23	39
Commission's Second Interim Evaluation	24-25	39
Follow-up of previous observations	26-27	39

INTRODUCTION

1. The European Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines (IMI Joint Undertaking), located in Brussels, was set up in December 2007 ⁽¹⁾ for a period of 10 years.
2. The objective of the IMI Joint Undertaking is to significantly improve the efficiency and effectiveness of the drug development process, with the long-term aim that the pharmaceutical sector produces more effective and safer innovative medicines ⁽²⁾.
3. The founding members of the Joint Undertaking are the European Union, represented by the Commission, and the European Federation of Pharmaceutical Industries and Associations (EFPIA). Any legal entity directly or indirectly supporting research and development in a Member State or in a country associated with the Seventh Framework Programme ⁽³⁾ may apply to become a member of the IMI Joint Undertaking.
4. The maximum EU contribution to the IMI Joint Undertaking, to cover running costs and research activities, is one billion euro to be paid from the budget of the Seventh Framework Programme. The EU and EFPIA, as founding members, are to contribute equally to the running costs, each with an amount not exceeding 4 % of the total EU contribution. Other members are to contribute to the running costs in proportion to their contribution to research activities. The research companies which are members of EFPIA are to contribute to the funding of research activities through in-kind contributions ⁽⁴⁾ at least equal to the EU financial contribution ⁽⁵⁾.
5. The Joint Undertaking started to work autonomously on 16 November 2009.

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 IMI Joint Undertaking, which comprise the financial statements ⁽⁶⁾ and the reports on the implementation of the budget ⁽⁷⁾ for the financial year ended 31 December 2013; 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 2343/2002 ⁽⁸⁾, 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.

⁽¹⁾ Council Regulation (EC) No 73/2008 of 20 December 2007 setting up the Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines (OJ L 30, 4.2.2008, p. 38).

⁽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 of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (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 reaching the goals of growth, competitiveness and employment. It is also a key pillar for the European Research Area.

⁽⁴⁾ According to Article 11(4) of the Annex to Regulation (EC) No 73/2008 setting up the Joint Undertaking, in-kind contributions are 'non-monetary contributions by the research-based pharmaceutical companies that are members of EFPIA with resources (such as personnel, equipment, consumables, etc.)'. The contribution from research companies must at least match the financial contribution of the Union.

⁽⁵⁾ According to Article 11(5) of the Annex to Regulation (EC) No 73/2008, 'the participating research-based pharmaceutical companies that are members of EFPIA shall not be eligible to receive any financial support from the IMI Joint Undertaking for any activity'.

⁽⁶⁾ 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.

⁽⁷⁾ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

- (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 officer⁽⁹⁾, 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 Council⁽¹⁰⁾ 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 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 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 accounting rules adopted by the Commission's accounting officer.

Basis for a qualified opinion on the legality and regularity of the transactions underlying the accounts

13. The Joint Undertaking's *ex post* audit strategy⁽¹¹⁾ was adopted by a Governing Board decision on 14 December 2010 and is a key tool for assessing the legality and regularity of the underlying transactions. As of June 2014, 14 out of

⁽⁹⁾ 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.

⁽¹⁰⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

⁽¹¹⁾ Article 12(4) of Regulation (EC) No 73/2008 setting up the Joint Undertaking states that 'the IMI Joint Undertaking shall carry out on-the-spot checks and financial audits among the participants of the Research Activities funded by the IMI Joint Undertaking'. *Ex post* audits may identify ineligible expenditure claimed by beneficiaries which is then subject to recovery procedures.

40 *ex post* audits of the second representative sample had been finalised, covering 3 million euro (11,8 % of the audited population). The detected error rate resulting from these audits is 2,3 % ⁽¹²⁾.

Qualified opinion on the legality and regularity of the transactions underlying the accounts

14. In the Court's opinion, except for the effects of the matter described in paragraph 13, the transactions underlying the annual accounts of the Joint Undertaking for the year ended 31 December 2013 are, in all material respects, legal and regular.

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

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

16. The initial 2013 budget included commitment appropriations amounting to 226 million euro and payment appropriations amounting to 135 million euro. At the end of the year the Governing Board adopted an amending budget that increased commitment appropriations to 255,7 million euro and decreased payment appropriations to 130,6 million euro. The overall implementation rate was 99,5 % for commitment appropriations and 97,5 % for payment appropriations.

17. In the case of operational activities, the implementation rate was 100 % for commitment appropriations and 99 % for payment appropriations ⁽¹³⁾. However, the total amount of commitment appropriations was committed at level one, meaning that, while calls for proposals have been launched, no corresponding grant agreements have yet been signed.

Calls for proposals

18. 2013 was the last year in which calls for proposals could be launched under the FP7 programme. The entire budget for research was committed (970 million euro), along with the requisite matching in-kind contributions from the EFPIA companies (982 million euro).

OTHER MATTERS

Legal framework

19. The new Financial Regulation applicable to the general budget of the Union was adopted on 25 October 2012 and took effect on 1 January 2013 ⁽¹⁴⁾. However the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 did not enter into force until 8 February 2014 ⁽¹⁵⁾. The financial rules of the Joint Undertaking were amended on 7 July 2014 to reflect these changes.

Internal audit function and the Commission's Internal Audit Service

20. In accordance with the strategic audit plan for 2012-2014 approved by the Governing Board on 3 November 2011, the Commission's Internal Audit Service (IAS) carried out an assurance engagement of project management and reporting on operational performance ⁽¹⁶⁾.

⁽¹²⁾ The detected error rate resulting from the 56 concluded audits of the first representative sample was 5,8 % (see paragraph 13 of the Court's Specific Annual Report for 2012) (OJ C 369, 17.12.2013, p. 25).

⁽¹³⁾ As regards administrative expenditure, the appropriations available for 2013 amounted to 8,4 million euro, the IMI Joint Undertaking achieved an implementation rate of 85 % for commitment appropriations (7 million euro) and 70 % for payment appropriations (6 million euro).

⁽¹⁴⁾ 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).

⁽¹⁵⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽¹⁶⁾ The final report dated 30 January 2014 included the following recommendations, in the context of IMI's continuous 'efforts to further improve the effectiveness and efficiency of systems that are set up to monitor projects and report on operational performance': (a) review the design and reporting of objectives and KPIs; (b) strengthen project monitoring and improve IT systems to enhance reporting. The action plan proposed by the IMI Joint Undertaking to implement these improvements in the course of 2014 was accepted and considered adequate by the IAS on 24 February 2014.

21. Additionally, the IAS performed an IT risk assessment of both the IMI Joint Undertaking's specific IT systems⁽¹⁷⁾ and the common IT infrastructure⁽¹⁸⁾ that the IMI Joint Undertaking shares with the FCH, Clean Sky, ENIAC and ARTEMIS Joint Undertakings.

Monitoring and reporting of research results

22. The Seventh Framework Programme (FP7) Decision⁽¹⁹⁾ establishes a monitoring and reporting system related to the protection, dissemination and transfer of the research results. The Joint Undertaking has developed procedures to monitor the protection and dissemination of research results at different stages of the projects. The requirements regarding the general monitoring report on FP7 have been defined, and the data related to the IMI Joint Undertaking's projects were transferred to the Commission in September 2013 for integration in CODA⁽²⁰⁾. However, this monitoring requires further development in order to comply fully with the provisions of the Decision⁽²¹⁾.

Conflicts of interest

23. The IMI Joint Undertaking has put in place specific measures to prevent conflicts of interest in respect to its Governing Board members, experts and employees. These are included in the rules of procedure of both the Governing Board and the Scientific Committee, and in the documentation on the code of conduct and conflicts of interest in the case of independent experts during evaluation. Furthermore, in April 2013 the Joint Undertaking adopted an updated and comprehensive policy on conflicts of interest for both management and staff.

The Commission's Second Interim Evaluation

24. The Commission's Second Interim Evaluation was carried out from March to July 2013, assessing the IMI Joint Undertaking in terms of relevance, effectiveness, efficiency and research quality.

25. The report, issued on 31 July 2013, was positive about the success of the IMI Joint Undertaking in achieving its objectives. It also highlighted areas where further improvements could be made, in particular as regards communication strategy, the development of additional key performance indicators to quantitatively demonstrate the Joint Undertaking's impact and socio-economic benefits, optimisation of the organisational structure, and a more flexible funding mechanism.

Follow-up of previous observations

26. The *ex post* audit corrections resulting from the first audits of the representative sample were implemented and reflected in the 2013 accounts. However, the validation of the accounting system does not yet cover the implementation of *ex post* audit results.

27. The methodology for evaluating in-kind contributions⁽²²⁾ was approved by the Governing Board on 11 November 2011. These contributions are validated by way of *ex ante* certification and *ex post* audits. In 2013, the remaining eight certified methodologies for in-kind contributions were accepted, bringing the total number of EFPIA companies with certified methodologies to 22. The first three *ex post* audits covering in-kind contributions were completed during the course of the year⁽²³⁾, a further *ex post* audit was initiated and two were in the process of being initiated at the year-end.

⁽¹⁷⁾ The final report dated 22 November 2013 noted the need for more formal instructions on project management and on change control processes in the contracts in order to mitigate contract-management risks. This recommendation was implemented by the IMI Joint Undertaking in January 2014.

⁽¹⁸⁾ 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.

⁽¹⁹⁾ Article 7 of Decision No 1982/2006/EC 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.

⁽²⁰⁾ Common Research Data Warehouse.

⁽²¹⁾ 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.

⁽²²⁾ In-kind contributions are eligible costs incurred by the legal entities participating in research activities but are not reimbursed by the Joint Undertaking (see also footnote 4).

⁽²³⁾ In one case the auditors found errors of a systematic nature, resulting in a significant increase (1 million euro) in the allowable amount that could be declared by the EFPIA company. As a consequence, the certificate on in-kind methodology was updated and resubmitted for the IMI Joint Undertaking's approval. As for the other two companies, the auditors identified isolated non-systematic errors with minor impact on the total contributions declared. All findings were accepted by all three companies.

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

Vitor Manuel da SILVA CALDEIRA

President

ANNEX

Innovative Medicines Joint Undertaking (Brussels)**Competences and activities**

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Extracts from Articles 171 and 172 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 171 of the Treaty.</p> <p>Council Regulation (EC) No 73/2008 of 20 December 2007 setting up the Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines (OJ L 30, 4.2.2008, p. 38)</p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Regulation (EC) No 73/2008)</i></p>	<p>Objectives</p> <p>The Innovative Medicines Joint Undertaking (IMI JU) shall contribute to the implementation of the Seventh Framework Programme (FP7) and in particular the theme 'Health' of the specific programme 'Cooperation'. It shall have the objective of significantly improving the efficiency and effectiveness of the drug development process with the long-term aim that the pharmaceutical sector produces more effective and safer innovative medicines. In particular it shall:</p> <ul style="list-style-type: none"> — support 'pre-competitive pharmaceutical research and development' in the Member States and countries associated with FP7 via a coordinated approach to overcome the identified research bottlenecks in the drug development process, — support the implementation of the research priorities as set out by the Research Agenda of the IMI JU, notably by awarding grants following competitive calls for proposals, — ensure complementarity with other activities of FP7, — be a public-private partnership aiming at increasing research investment in the biopharmaceutical sector in the Members States and countries associated with FP7 by pooling resources and fostering collaboration between the public and private sectors, — promote the involvement of small and medium-sized enterprises in its activities, in line with the objectives of FP7.
<p>Governance</p>	<p>The bodies of the IMI JU are the Governing Board, the Executive Director and the Scientific Committee. The Governing Board is composed of 10 Board members representing equally the two Founding Members of the IMI Joint Undertaking: the European Commission and the European Federation of Pharmaceutical Industries and Associations (EFPIA). The Executive Director is the chief executive responsible for the day-to-day management of the IMI JU in accordance with the decisions of the Governing Board and is supported by an Executive Office. The Scientific Committee is an advisory body to the Governing Board. The Joint Undertaking is also supported by two external advisory bodies: the IMI States Representatives Group and the Stakeholder Forum.</p>
<p>Resources available to the Joint Undertaking in 2013</p>	<p>Budget⁽¹⁾</p> <p>255 715 919 € for commitments</p> <p>130 558 622 € for payments</p>

	Staff as at 31 December 2013 All 36 posts provided for in the establishment plan (29 temporary staff and seven contract staff) were occupied. 80 % of these resources are directly assigned to support operational activities.
Activities and services provided in 2013	See Annual Activity Report 2013 of the IMI JU at www.imi.europa.eu

(¹) The amounts include appropriations carried over from 2012.

Source: Information supplied by IMI JU.

THE JOINT UNDERTAKING'S REPLIES

13. IMI welcomes the positive conclusion of the Court on the legality and regularity of all transactions underlying the annual accounts, with the only exception of material errors detected by IMI in 2013 through its own *ex post* audits of interim payments.

All errors detected by IMI from these audits have since been communicated to the audited beneficiaries and the required follow-up actions have been launched. Moreover, findings from the audits that were considered as systematic are being extended to non-audited claims submitted by the same audited beneficiaries in order to pro-actively correct any possible similar errors in other claimed costs that were not covered in the initial audits.

In parallel, IMI has continued to take concrete preventive measures to mitigate the risk of future errors in beneficiaries' cost claims. These have included the organisation of frequent financial workshops for participants that focus on recurrent causes of errors and prevention, as well as the regular updating of IMI's Financial Guidelines for participants explaining in detail the provisions of the IMI model grant agreement.

Furthermore, IMI has carried on implementing an intensive annual programme of *ex post* audits. These audits have proven to be a highly effective and reliable basis for assessing and monitoring the overall regularity and legality of interim payments on a multiannual basis, and as a basis for detecting and correcting errors found in the audited claims. IMI also maintains close coordination with the European Commission and its agencies involved in the Seventh Framework Programme and shares information on common beneficiaries in order to optimise its audit coverage and effectively mitigate the risks of non-compliance.

The registered drop to 2,3 % in the error rate resulting from audits finalised by IMI in 2013 (when compared to the error rate of 5,8 % in 2012) is significant. It also provides a very encouraging early indication that the error rate is being effectively reduced over time through concrete actions and measures. The estimated error rate will, nevertheless, continue to evolve, on a multiannual basis, as more audits are launched and completed. IMI will carry on monitoring closely the evolution of the error rate and the impact of its actions, updating accordingly its *ex post* audit strategy to reflect latest indications and any new emerging risks. With many projects only starting to generate expenditure, particularly in the case of projects from Call 5, the full impact of IMI's actions can only be seen in the longer term, once more projects submit cost claims and *ex post* audits cover a greater part of the total population of beneficiaries.

IMI remains committed to managing its funding through a trust-based approach with the participants in the projects whilst ensuring sufficient control and accountability. This balanced approach will also contribute towards ensuring a successful outcome of the IMI projects as many of them are already starting to generate impressive or promising results, in the interest of patients and society at large.

21. An action plan has been developed together with the other Joint Undertakings sharing the common IT infrastructure and is being implemented.

26. The recommendation of the Court to also cover the implementation of *ex post* audit results in the validation of the accounting system by the Accounting Officer has been addressed through the launch of a follow-up exercise.

REPORT

on the annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2013, together with the Joint Undertaking's replies

(2014/C 452/06)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-3	45
Information in support of the statement of assurance	4	45
Statement of assurance	5-15	45
Opinion on the reliability of the accounts	10	46
Opinion on the legality and regularity of the transactions underlying the accounts ...	11	46
Emphasis of Matter	12-14	46
Comments on budgetary and financial management	16-17	47
Presentation of the accounts	16	47
Implementation of the budget	17	47
Comments on key controls of the joint undertaking's supervisory and control systems ...	18-22	47
Operational procurement and grants	19-20	48
Overall control and monitoring of operational procurement contracts and grants ...	21-22	49
Other matters	23-32	49
Late payment of membership contributions	23	49
Legal framework	24	49
Intellectual property rights and industrial policy	25-27	49
Conflicts of interest	28	50
Annual activity report	29-30	50
Follow-up of previous observations	31-32	50
Host State agreement	31	50
Rules implementing the Staff Regulations	32	50

INTRODUCTION

1. The European Joint Undertaking for ITER⁽¹⁾ and the Development of Fusion Energy (F4E) was set up in March 2007⁽²⁾ for a period of 35 years. While the main fusion facilities are to be developed at Cadarache in France, the Joint Undertaking is located in Barcelona.
2. The tasks of the Joint Undertaking are⁽³⁾:
 - (a) to provide the contribution of Euratom to the ITER International Fusion Energy Organisation⁽⁴⁾;
 - (b) to provide the contribution of Euratom to 'Broader Approach' (complementary joint fusion research) activities with Japan for the rapid development of fusion energy;
 - (c) to prepare and coordinate a programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities, including the International Fusion Materials Irradiation Facility.
3. The members of the Joint Undertaking are Euratom, represented by the European Commission, the Member States of Euratom and other countries which have concluded cooperation agreements with Euratom in the field of controlled nuclear fusion and have expressed their wish to become members (as at 31 December 2013: Switzerland).

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

4. 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

5. 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 Joint Undertaking for ITER and the Development of Fusion Energy, which comprise the financial statements⁽⁵⁾ and the reports on the implementation of the budget⁽⁶⁾ for the financial year ended 31 December 2013; and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

6. In accordance with Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013⁽⁷⁾, 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 officer⁽⁸⁾, and making accounting estimates that are reasonable in the circumstances. The Director approves

⁽¹⁾ ITER: International Thermonuclear Experimental Reactor.

⁽²⁾ Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58).

⁽³⁾ The Annex summarises the Joint Undertaking's competences, activities and available resources. It is presented for information purposes.

⁽⁴⁾ The ITER International Fusion Energy Organisation was set up in October 2007 for an initial period of 35 years to implement the ITER project, which aims to demonstrate the scientific and technological feasibility of fusion energy. The Members are Euratom, the People's Republic of China, the Republic of India, Japan, the Republic of Korea, the Russian Federation and the United States of America.

⁽⁵⁾ 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.

⁽⁶⁾ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

⁽⁷⁾ OJ L 328, 7.12.2013, p. 42.

⁽⁸⁾ 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.

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

7. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council ⁽⁹⁾ 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.

8. 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.

9. 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

10. 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 accounting rules adopted by the Commission's accounting officer.

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

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

Emphasis of Matter

12. Without calling into question the opinions expressed in paragraphs 10 and 11, the Court draws attention to the following. The Council conclusions adopted on 7 July 2010 ⁽¹⁰⁾ approved 6,6 billion euro (in 2008 values) for the Joint Undertaking contribution to the ITER construction phase of the project. This figure, which doubled the initial budgeted costs for this phase of the project, did not include an amount of 663 million euro proposed by the European Commission in 2010 to cover potential contingencies ⁽¹¹⁾.

⁽⁹⁾ Article 107 of Regulation (EU) No 1271/2013.

⁽¹⁰⁾ Council conclusions on ITER status of 7 July 2010 (Ref.11902/10).

⁽¹¹⁾ Communication from the Commission to the European Parliament and the Council of 4 May 2010 on ITER status and possible way forward (COM(2010) 226 final).

13. The amount of the Joint Undertaking contribution to the construction phase of the ITER project is exposed to significant risks of increase, mainly resulting from changes in the scope of the project deliverables and due to the current schedule which is considered unrealistic ⁽¹²⁾. In November 2013, the Joint Undertaking estimated the shortfall ('negative contingency') until the finalisation of the construction phase of the project to be 290 million euro ⁽¹³⁾. The slippage for the construction phase of the project was estimated by the Joint Undertaking at the time of the audit (April 2014) to be at least 30 months.

14. In relation to these risks, the Joint Undertaking has not yet implemented a system at contract level to regularly monitor the cost deviations, and has not updated the valuation of the Joint Undertaking contribution to the ITER project beyond the finalisation of the construction phase ⁽¹⁴⁾.

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

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Presentation of the accounts

16. In the notes to the financial statements, the table and the information included under Heading 4.3.1.1. 'ITER Procurement Arrangement (ITER IO)', reflect the Procurement Arrangements signed (Column 3) and the Procurement Arrangements credited so far (Column 4). However, the table does not show the degree of advancement of the works in progress and it only contains a limited estimate of the advancement of the work in progress. This information is essential to reflect the status of the activities carried out so far by the Joint Undertaking as regards the procurement arrangements signed with the ITER International Organisation.

Implementation of the budget

17. The final 2013 budget available for implementation included commitment appropriations of 1 297 million euro and payment appropriations of 432,4 million euro. The utilisation rates for commitment and payment appropriations were 100 % and 89,8 % respectively. However, the implementation rate for the payment appropriations with respect to the 2013 initial budget was only 57,8 % ⁽¹⁵⁾. Regarding commitment appropriations, of the 1 254 million euro available for operational activities, 61,7 % were implemented through direct individual commitments while the remaining 38,3 % were implemented through global commitments.

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

18. The Court of Auditors has previously reported that the Joint Undertaking's internal control systems had not been fully established. Although significant progress was achieved during 2013, a number of actions still need to be implemented:

— as a result of the exercise carried out in 2013 to update the cost estimate of the EU contribution for the construction phase of the project, the process for managing the cost estimate at system level is now in place. However, the process for managing the cost estimate at contract level requires further development work ⁽¹⁶⁾;

⁽¹²⁾ Conclusions of the European Commission Internal Audit Service as regards the competitive dialogue procedure for the procurement of Tender Batch 03 (Tokamak Buildings). See also the observations included in the report 'Potential for Reorganization within the ITER project' of 2013, carried out by Ernst & Young upon request of the European Parliament, as regards the significant risk for the Joint Undertaking contribution to the project with the current levels of contingencies (http://www.europarl.europa.eu/meetdocs/2009_2014/documents/cont/dv/study_geier/study_geieren.pdf); and the Commission communication to the Council of the European Union of 14 February 2013 (5852/13 RECH 21 ATO 19) stressing the existing concerns on the progress of the project, in particular on cost containment and schedule slippage.

⁽¹³⁾ This represents a deviation of 4,39 % over the figure approved by the Council in 2010 (Fusion for Energy Progress Report to the European Competitiveness Council of November 2013).

⁽¹⁴⁾ The indicative total resources deemed necessary for the Joint Undertaking for the 35 years of its duration were determined, in accordance with Article 4(1) of F4E Decision 2007/198/Euratom, and set at 9 653 million euro. Only the Joint Undertaking contribution to the construction phase of the project, initially estimated at 2,7 billion euro, was subject to a revision in 2008 which resulted in the doubling of the initial estimate.

⁽¹⁵⁾ The initial budget available for payment appropriations adopted on 11 December 2012 was 677,2 million euro. It was then reduced to 432,4 million euro in the amending budgets of 27 June and 10 December 2013, mainly because of delays in the implementation of the activities related to the ITER construction budget chapter.

⁽¹⁶⁾ Until this process is in place, the local integrated reporting portal (DWH) cannot provide an effective reconciliation between the accounting system and the project management system. It thus does not provide the information necessary to the regular monitoring of cost deviations (see also footnote 12 of the Court's 2012 report, OJ C 369, 17.12.2013, p. 35).

- the audit results arising from the implementation of the F4E overall control and monitoring strategy for grants and operational contracts ⁽¹⁷⁾ were not available at the time of the audit;
- except for the action plan in response to the internal audit on management of experts' contracts, the other action plans adopted by the Joint Undertaking in response to internal audits ⁽¹⁸⁾ had not been fully implemented at the time of the audit. The European Commission Internal Audit Service review of the competitive dialogue procedure for the procurement of tender batch 03 (Tokamak Buildings) concluded that progress had been made towards the application of the basic principles of public procurement but pointed out that the contract tender batch audited included considerable cost uncertainties, mainly associated with the possible evolution of ITER project design and planning. It also mentioned that a substantial part of the requested input data from the ITER Organisation, to be used by the Joint Undertaking for drafting the technical tender specifications, was not available in due time;
- the corporate risk management system did not identify new risks in 2013. As regards the actions adopted in response to the main risks identified previously ⁽¹⁹⁾, 12 were implemented, 19 were in progress and 6 had not started by November 2013 ⁽²⁰⁾.

Operational procurement and grants

19. Negotiated procedures constituted 44 % of the 41 operational tendering procedures launched in 2013 (40 % in 2012). The Joint Undertaking needs to increase the competitiveness of procurement procedures and reduce the use of negotiated procedures. Regarding grants, the average number of proposals received was only one per call.

20. Five operational procurement procedures were audited. The following weaknesses were identified:

- in one procurement procedure the Joint Undertaking did not advertise the contract by means of a pre-information notice in order to increase visibility and competition,
- in one procurement procedure there was an increase of 32 % with respect to the initial cost estimate. In two other procurement procedures the reconciliation of the difference between the final contract value with the initial estimated value was complicated given the nature of the information available in the files ⁽²¹⁾,
- in one procurement procedure the Joint Undertaking did not have specific guidelines and procedures to ensure that the deliverables from the third parties used as input documents for the tendering procedures were uniformly and systematically reviewed and formally accepted by the Joint Undertaking ⁽²²⁾,
- in one procurement procedure the amendments to the original contracts increased the value of the contract by 15 % compared with the initial amount. The information available in the file was not sufficient to conclude that the assessment of the materiality of the amendments was performed as required by the Joint Undertaking's internal procedures ⁽²³⁾,

⁽¹⁷⁾ Paragraphs 15 and 23 of the Court's 2012 report.

⁽¹⁸⁾ Action plans in response to the internal audits on financial circuits, grant management, expert contracts, operational pre-procurement activities, procurement in the area of ITER buildings, selection and recruitment and review of the competitive dialogue procedure for the procurement of Tender Batch 03 (Tokamak Buildings). The internal audit reports on the budgetary process of the Joint Undertaking (Annual audit plan of the Internal Audit Capability for 2012) and on the monitoring of contract implementation in the area of ITER buildings (Annual audit plan of the Internal Audit Capability for 2013) were not yet available at the time of the Court's audit.

⁽¹⁹⁾ The corporate risk management system was presented to the Governing Board in July 2012.

⁽²⁰⁾ Some of the main risks classified as very high by the Joint Undertaking had particular impact in the 2013 budget implementation exercise, namely: the low budget implementation for payments appropriations as compared with the initial planning; the lack of competition or very low competition for some operational procedures and for grants; uncertainties about the final scope of the procurement arrangements during the definition of the technical specifications for procurement procedures or during the implementation of the contract; delays in the reception of technical data from the ITER Organisation during the implementation of the procurement arrangements.

⁽²¹⁾ This was particularly relevant in the Tender Batch 04 for Supply and Installation for Tokamak Complex and Surrounding buildings. The initial cost estimate at 2008 values amounted 186,6 million euro. The contract signed amounted to 537,3 million euro. The difference was partly due to significant design change requests from the ITER Organisation, additional items and contingencies, evolution in the scope of the works, and the transfer of activities from other batches.

⁽²²⁾ This observation was also raised by the European Commission Internal Audit Service in its report on Tender Batch 03 (Competitive dialogue procedure for Tokamak buildings).

⁽²³⁾ The information available did not include the formal decisions on whether the amendments were classified as non-significant and the justifications thereof.

- the Joint Undertaking has not developed a procedure for the members of staff involved in the tendering procedures; in two procurement procedures the Joint Undertaking staff members providing technical advice during the evaluation of the offers upon request of the evaluation committee had not therefore been formally nominated by the Appointing Authority, either as members of the evaluation committee or as experts providing technical advice to the committee ⁽²⁴⁾,
- in one tendering procedure, the Authorising Officer appointed a team to conduct a dialogue with the candidates selected following the call for expressions of interest. However, there was no formal mandate for this team setting out the dialogue strategy, the objectives to be achieved and the technical, financial and contractual parameters for the negotiations ⁽²⁵⁾,
- in another procedure, the dialogue phase finished four months later than planned and the final conditions of the contract and the updated technical version of the tender specifications were only sent in February 2013. The deadline to send the final tenders was April 2013 (whereas October 2012 was initially planned). The contract was signed four months after the target date.

Overall control and monitoring of operational procurement contracts and grants

21. The Joint Undertaking has a system for performing audits ⁽²⁶⁾ at the level of contractors with the aim of checking compliance with the quality assurance requirements ⁽²⁷⁾.
22. The results of *ex post* audits on grants and of financial and compliance verifications on contract implementation arising from the implementation of the overall monitoring and control strategy were not available at the time of the Court's audit (April 2014).

OTHER MATTERS

Late payment of membership contributions

23. The payment of the 2013 annual membership contributions ⁽²⁸⁾ by seven members, totalling 2,2 million euro, was subject to delays ranging from three to forty-eight days.

Legal framework

24. The new Financial Regulation applicable to the general budget of the Union ⁽²⁹⁾ was adopted on 25 October 2012 and took effect on 1 January 2013 ⁽³⁰⁾. However, the framework financial regulation for the bodies referred to in Article 208 of the new Financial Regulation entered into force on 8 December 2013 ⁽³¹⁾. The financial rules of the Joint Undertaking have not yet been amended to reflect these changes.

Intellectual property rights and industrial policy

25. The Decision on the implementation of the Fusion for Energy Industrial Policy and the Policy on Intellectual Property Rights and dissemination of information was adopted by the Joint Undertaking's Governing Board on 27 June 2013. However, the Joint Undertaking still has to adopt and implement specific measures to mitigate certain risks related to the protection of the Intellectual Property Rights and the dissemination of research results.

⁽²⁴⁾ However, all staff members involved had signed, however, declarations of confidentiality and of absence of conflict of interest.

⁽²⁵⁾ This observation was also raised by the European Commission Internal Audit Service in its report on Tender Batch 03 (Competitive dialogue procedure for Tokamak buildings).

⁽²⁶⁾ Of the 26 quality audits carried out during 2013, 22 were closed by April 2014. The audits identified 35 situations of non-conformity with the procedures and 201 areas for improvement.

⁽²⁷⁾ The audits covered the quality plan, situations of non-conformity, purchase control and subcontracting management, documentation and data management, changes and deviations management, the civil works quality control plan, the detailed project schedule, contract risk management and the technical works quality control plan.

⁽²⁸⁾ Members' contributions other than the European Commission and France as host Member State.

⁽²⁹⁾ 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).

⁽³⁰⁾ Article 214 of Regulation No 966/2012 with the exemptions referred to.

⁽³¹⁾ Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

26. The Joint Undertaking is offering the contractors exclusive rights to the exploitation of the Intellectual Property they produce in fields outside fusion, and non-exclusive rights in the field of fusion. This may expose the Joint Undertaking to a risk as regards the obligation for the Joint Undertaking to retain the right to access the full Intellectual Property Rights (background and foreground) involved in the European in-kind contributions and to be able to transfer this access right to the ITER Organisation, if needed.

27. The Joint Undertaking should monitor the application of the clause of the contracts obliging the contractors to refrain from carrying out any dissemination of research results until a decision about their possible protection is made. .

Conflicts of interest

28. The Joint Undertaking has adopted specific rules preventing potential conflicts of interest of the members of its Governing Board, Executive Committee, Audit Committee and experts. However, it still has to adopt rules regarding staff members and to set up a database for the general declarations of interest.

Annual activity report

29. The Chair of the Governing Board of the Joint Undertaking refers in the 2013 annual activity report to the project delays and to the need to seek cost savings; in this report, the Executive Director refers to the risks associated with a potential budget shortfall by 2020, mainly related to the increased scope in relation to the ITER buildings, and to the current schedule, which is under revision (see emphasis of matter in paragraphs 12-14).

30. The Executive Director's declaration of assurance makes reference to the progress achieved in 2013 at the level of the overall control environment of the Joint Undertaking, although it acknowledges that some parts still have to reach full maturity (see paragraph 18).

Follow-up of previous observations

Host state agreement

31. According to the Host State Agreement signed with the Kingdom of Spain on 28 June 2007, permanent premises should have been made available to the Joint Undertaking by June 2010. At the time of the audit (April 2014), this was still not the case.

Rules implementing the staff regulations

32. The Joint Undertaking has not yet adopted all the rules implementing ⁽³²⁾ the Staff Regulations.

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

Vitor Manuel da SILVA CALDEIRA

President

⁽³²⁾ Inter alia on recruitment of temporary agents, classification in grade and step upon engagement, part-time work, appraisal of the Director and modified provisions on family leave, parental leave and pension rights.

ANNEX

European Joint Undertaking for ITER and the Development of Fusion Energy (Barcelona)**Competences and activities**

<p>Areas of Union competence deriving from the Treaty</p> <p><i>(Articles 45 and 49 of the Treaty establishing the European Atomic Energy Community)</i></p>	<p>Chapter 5, on 'Joint Undertakings', of the Treaty establishing the European Atomic Energy Community, and in particular:</p> <p>Article 45</p> <p><i>'Undertakings which are of fundamental importance to the development of the nuclear industry in the Community may be established as Joint Undertakings within the meaning of this Treaty, in accordance with the following Articles ...'</i></p> <p>Article 49</p> <p><i>'Joint Undertakings shall be established by Council decision. Each Joint Undertaking shall have legal personality.'</i></p>
<p>Competences of the Joint Undertaking</p> <p><i>(Council Decision 2007/198/Euratom)</i></p>	<p>Objectives</p> <ul style="list-style-type: none"> — To provide the contribution of the European Atomic Energy Community (Euratom) to the ITER International Fusion Energy Organisation; — to provide the contribution of Euratom to Broader Approach activities with Japan for the rapid realisation of fusion energy; — to prepare and coordinate a programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities, including the International Fusion Materials Irradiation Facility (IFMIF). <p>Tasks</p> <ul style="list-style-type: none"> — Oversee preparation of the ITER project site; — provide components, equipment, materials and other resources to the ITER Organisation; — manage procurement arrangements vis-à-vis the ITER Organisation and, in particular associated quality assurance procedures; — prepare and coordinate Euratom's participation in the scientific and technical exploitation of the ITER project; — coordinate scientific and technological research and development activities in support of Euratom's contribution to the ITER Organisation; — provide Euratom's financial contribution to the ITER Organisation; — arrange to make human resources available for the ITER Organisation; — interface with the ITER Organisation and carry out any other activities in furtherance of the ITER Agreement.
<p>Governance</p>	<p>Governing Board, Director and other bodies</p> <p>The Governing Board is responsible for the supervision of the Joint Undertaking in the pursuit of its objectives and ensures close collaboration between the Joint Undertaking and its members in the implementation of its activities. Together with the Governing Board and the Director, who is the chief executive officer responsible for the day-to-day management of the Joint Undertaking and its legal representative, the Joint Undertaking has several bodies:</p>

	<p>Bureau, Technical Advisory Panel, Executive Committee, Administration & Finance Committee, Audit Committee.</p> <p>Internal auditor: internal audit capability and the European Commission's Internal Audit Service (IAS) since 1 January 2012.</p> <p>External auditor: European Court of Auditors.</p> <p>Discharge authority: the European Parliament, on a recommendation from the Council.</p>
Resources available to the Joint Undertaking in 2013	<p>Budget</p> <p>431,6 million euro final revenue (payment appropriations) of which 69 % funded by Community contribution.</p> <p>Staff at 31 December 2013</p> <p>262 EU official and temporary agent posts provided for in the establishment plan, of which 234 posts were occupied;</p> <p>142 contract agent posts occupied.</p>
Activities and services provided in 2013	<p>For detailed information concerning the activities and services provided in 2013, please consult the F4E website at http://www.fusionforenergy.europa.eu/</p>

Source: European Joint Undertaking for ITER and the Development of Fusion Energy.

THE JOINT UNDERTAKING'S REPLIES

16. The tables referred to reflect credit earned by F4E based on the achieved Credit Allocation Scheme (CAS) milestones agreed upon with ITER IO (International Organisation) on the way to the completion of the specific procurement. This is what ITER IO officially acknowledges as far as the progress is concerned. However, the profile of the CAS milestones value doesn't represent correctly the real progress of the work (i.e. it is peaked towards the end of the procurement and therefore the acknowledgment through credits is skewed). F4E has started in 2014 the required actions to put in place an Earned Value Reporting that will enable F4E to provide the right information on the progress of the work. It is worth mentioning that every year F4E prepares an Annual Progress Report which together with the F4E Annual Activity Report provides additional information in terms of overall progress of the European contribution to the ITER Project. Furthermore, F4E has included in the 2013 Annual accounts a raw preliminary estimation of the percentage of works completed, based on the amount of expenses related to procurement arrangements incurred up to date and comparing them to the estimated value of the contribution in kind to the project.

17. With regards to the implementation rates for payment appropriations, the ITER project has experienced further schedule slippage with a consequent delay in the signature of important contracts, which has not allowed for the execution of the planned pre-financing. The main causes were delays in the provision of data by ITER IO and longer than planned negotiations with companies in order to decrease cost in favour of a better cost containment.

18. Significant progress has been made during 2013 in the internal control system and further actions are being taken in order to strengthen the F4E Control environment. As explained below in more detail, the implementation of the actions identified by the auditor is already well advanced:

Cost estimates

F4E has completed an update of its cost baseline at Level 4 (Procurement Arrangement — PA Level) of the Work Breakdown Structure (WBS) and of a preliminary Estimate at Completion (EAC) also at WBS-L4 considering the currently available project dates. The data will be updated, especially once the realistic schedule exercise at project level will be completed. The top-down approach in costing adopted by F4E is now allowing the organisation to propagate the costing exercise to the WBS-L6 (contract level). The exercise is a lengthy one and it is requiring some time due also to the need of constantly refining the already gathered information by considering the project evolution. This will allow the organisation to have a more detailed basis for the cost analysis, although the data already available at WBS-L4 allow a good level of monitoring and cost containment which is reported annually to the European Council through the F4E Progress report.

Audit results

Please refer to our reply to paragraph 22.

Action Plans

The overall status of implementation has significantly improved since the Audit Committee of November 2013 and is now 80 % (information shared with the Audit Committee of May 2014).

Without taking into account the 2 most recent audit reports issued towards the end of 2013 (Selection and Recruitment and Review of the Competitive Dialogue procedure for the procurement of tender batch 03 — TB03), the implementation rate is 89 %. The actions plans related to the Financial Circuits, Grants management and Expert contracts audits have been fully implemented.

Corporate Risk

F4E presented the updated corporate risk to the Audit Committee in May 2014. It has to be noted that due to the lack of resources, the GB agreed that F4E would only monitor regularly and in detail the risks classified as very high. The action plan proposed in response to such risks are prioritised, keeping in mind that some of the actions are proposed in a continuous improvement spirit and may never be considered as completed.

19. F4E partly agrees with the comment as most of the negotiated procedures reported by the auditor is below the 50 000 euro threshold indicated by the JU's regulations and therefore should not be regarded as exceptional. Furthermore, due to their low average value, negotiated procedures correspond to 44 % of yearly operational procurement procedures but only to less than 15 % of the JU's yearly commitment. In this respect the use of low-value negotiated procedures allows the

JU to focus the limited internal resources on the high value/high risk procurements, with a beneficial risk mitigating effect. In relation to the very low number of proposals received for the grant calls, this fact is mainly due to 2 factors. On the one hand the extremely specialised nature of F4E's grants entails that the nature of the work is only of interest to a small number of applicants in Europe. On the other hand the success of the European fusion programme in creating a European research area in fusion with minimal duplication of efforts and close collaboration among teams active in one field results in pan-European consortia being behind most proposals in response to F4E calls.

20. In relation to the weaknesses identified, F4E would like to state that measures are already being taken in order to remediate them, as detailed below.

Use of pre-information notice

A guideline document stipulating the obligation to publish a pre-information notice for high value contracts (estimated contract value above 10 million euro) and for contracts which are considered by the Authorising Officer to be critical has been approved by F4E in September 2012. The procurement procedure referred to by the auditor was launched before the approval of this procedure.

Estimation of contract values

In respect of the procurement procedure for which there was an increase of 32 % with respect to the initial cost estimate, F4E has provided to the auditors with the detailed reconciliation of the increase, mainly due to two factors: the time required for performing the initial scope was re-evaluated and this resulted in an increase of time, and additionally some additional scope was included in the contract.

In respect to the two other procurement procedures all the details concerning the differences in cost have been provided to the auditors. In the case of the other procedures, and in particular in relation to the tender batch 04 (TB04) contract, F4E agrees that the reconciliation was made complex on the basis of the documents contained in the procurement file. This is mainly the result of the nature, complexity and amounts involved in such contract, which in its turn result in huge amounts of documents contained in the file rather than to missing or incomplete information.

Deliverables of third parties used in tendering procedures

In order to ensure adequate acceptance of deliverables contributed by third parties assisting the procurement and to secure coherence and compliance with the regulatory framework, F4E will prepare a checklist regarding the formal and quality aspects which need to be fulfilled in order to ensure the appropriate use of third-party information.

Amendments to contracts

The fact that the F4E Authorising Officer (AO) approved the contractual amendment without launching the new procurement procedure under Art.100(2)(f) or (g) of F4E Implementing Rules proves that the contractual modifications have been considered as not substantial. However for the avoidance of doubt F4E will include in the Request for Amendment form, accompanying the actual contract amendment request to the AO: (i) a description of the history of the contract with special regard to previous amendments; and (ii) a specific assessment of the substantiality of the proposed change to the initial contract with view to previous amendments, if any.

Staff members participating in tendering procedures and negotiation mandate

While it is correct that some staff members provided their input during the evaluation of offers upon request of the Evaluation Committee without being nominated by the Appointing Authority, either as the members of the Evaluation Committee or as experts providing advice on particular aspects of the offers, this has no negative impact. As mentioned by the Court all staff members involved signed the declarations on confidentiality and absence of conflict of interest, are subject to the Staff Regulations and provided only factual input based on the Evaluation Committee request. All staff members involved were identified in the contract adjudication file.

F4E is currently developing: (i) a procedure and a template concerning the involvement of internal experts; and (ii) for the definition of a negotiation mandate from the AO to the Negotiation Committee defining the boundaries which can be explored.

Delays in concluding competitive dialogue

As acknowledged by the IAS in the Review of the Competitive Dialogue procedure for the procurement of tender batch 03 — TB03, F4E is pioneering within the European Institutions in the use of this type of procurement procedures, which are better suited for complex markets such as the TB04 one. The delay to finalise and publicise the tender specifications after completion of the negotiations reflects the internal decision making procedure required given the scope of the contract in terms of complexity and price; it has to be taken into account as well the fact that the Christmas break was included in the period. Concerning the time to contract, it may be a result of the above but is more generally a result of the delay accumulated concerning the other ITER Building contracts.

21. F4E has no additional comment.

22. In the case of grants there are indeed final audit results in 2013 which have been already implemented.

Even if it was a single audit, it covered 21 % of the total amount of contributions paid by F4E for grants for the period 2010-2013. The final report of the external audit firm was communicated to the beneficiary and the results have been already implemented. Regarding the 3 audits being performed in 2014, the external audit firm has an important backlog of work and F4E has not yet received any report (not even the preliminary report which is contractually due after the completion of the fieldwork).

For procurement contracts, in 2013 the IAC assessed financial, compliance, quality and performance aspects of five contracts managed by Site Buildings and Power Supplies Project Team. The 1st Draft version of the report was issued to the Director on 28 March 2014. Following the contradictory procedure and considering the high technical and legal complexity of some of the issues identified by the IAC, a Final Draft was provided to the Director on 30 September 2014. Nevertheless we would like to note that several weaknesses identified by the IAC are already being remedied.

23. F4E is pleased to note the progress in the time to pay for the Membership contribution, despite the incidents pointed out by the Court. This is reflected by the fact that out of the 2,2 million euro contribution subject to delays, 1,7 million euro, corresponding to the contribution of 2 members, was received with only one working day delay.

24. F4E would like to note that no undue delays took place. The new Framework Financial Regulation entered into force on 8 December 2013. F4E assessed the changes brought about by the new Framework Financial Regulation and the need for derogations which are vital to the organisation due to its specific operating needs. Based on that assessment F4E developed and presented a proposal for amendment/recast of F4E Financial Regulation and its Implementing rules with key deviations to the Governing Board at its meeting of June 2014, which endorsed the key deviations. The Governing Board meets twice a year and this was the first meeting following the entry into force of the Framework Financial Regulation to which a proposal could be submitted by F4E. In accordance with Article 5 of Council Decision 2007/198/Euratom, F4E is now dependent on the Commission to issue a prior opinion on the F4E Financial Regulation, since only after assessment of the Commission opinion can the final version of the rules be submitted to the Governing Board for its next meeting in December 2014.

25. F4E has sought for the widest possible understanding and support from the industry for the implementation of such policy. As a result a consultation process was carried out during 2013 to get the input and, where possible, the agreement of the industry on a number of practical solutions. It is worth highlighting that when adopting the measures for the functional implementation of the Intellectual Property (IP) policy, the contractual clauses to be used in F4E's contractual activities were also adopted. This was made on purpose to allow F4E applying the policy without the need of any further implementing or regulatory measures. Anyhow, to facilitate that the new policy fits smoothly with F4E's practices and to guarantee its observance some adjustment were made in F4E's decision making process.

26. F4E would like to emphasise that the residual risk associated with the exclusive rights to exploitation outside fusion offered to F4E's contractors is effectively mitigated by the fact that F4E retains as an uncompromised rule the non-exclusive, transferrable right of use of the developed IP in the fusion domain. No conflict exists between the exclusivity granted for non-fusion applications and the shared rights requested for fusion applications; therefore no additional risk is brought in by this differentiation. F4E will take special care in defining the boundaries of what would be considered as fusion application (which will as a minimum include all the systems, subsystem and components covered by the ITER Agreement scope), in order to ensure vis-à-vis contractors the maximum clarity and transparency.

In addition, F4E considers that this approach to Intellectual Property Rights increases competition as the contractual conditions are more attractive to contractors, which both contributes to cost containment and to spreading our presence throughout Europe.

27. F4E would like to note that IP assets owners have by definition a high interest to ensure that any dissemination activity does not prevent the protection of the assets. This is particularly the case if the contractor has exclusive rights of exploitation in its primary fields of business outside fusion. The possibility to implement a watch service to claim the infringement of the contractual conditions in case a contractor makes a publication without permission does not appear proportionate to the size of the residual risk and would be difficult to implement in practice.

28. The Rules on the management of the conflict of interests regarding staff members have been adopted by the GB and entered into force on 1 July 2014. Implementing measures (e.g. on general declarations of interests, post-employment rules) are being adopted imminently. The dedicated database for general declarations of interests is being elaborated.

29. F4E has no additional comment.

30. F4E has no additional comment.

31. The Host Agreement signed between 'Fusion and for Energy' and the Kingdom of Spain in 2007 does indeed foresee that Spain will provide F4E with permanent premises no later than 3 years after the signature of the agreement. The Agreement also foresees that in the meantime, and before the final premises are made available, Spain will provide temporary premises.

As Spain has not yet provided the permanent premises foreseen by the Host Agreement and has refused to provide additional space for the temporary premises, the issue was brought to the attention of the Governing Board in December 2013. In its conclusions, the F4E Governing Board:

- Acknowledged the difficult situation faced by F4E and its staff in the current temporary premises, and the importance for the development and smooth functioning of F4E to dispose of an exclusive permanent building.
- Urged Spain to fulfil the obligations laid down in the Host Agreement to provide a permanent premises for F4E as soon as possible and resolved to ask the GB Chair to write to the Spanish authorities to express the concerns of the GB.
- Urged Spain to provide free of charge additional temporary office space for F4E commensurate with the agreed staff complement of F4E until such time as the permanent premises are available.

The conclusions of the Governing Board were transmitted to the Spanish authorities asking them to give this issuer their urgent attention and inform the F4E Governing Board on the actions which they planned to take to respect their obligations. The Spanish authorities replied stating that they already provide all the space foreseen by the Host Agreement and therefore no additional space can be made available. In addition to the permanent premises, they make reference to the discussions which took place in 2010-11 on a possible building in the area, which was later disregarded by both Spain and F4E, to finally say that there is currently a process underway to choose a site for the new building and that F4E would be soon informed. Despite the statements made by the Spanish authorities on possible progress on the decision for the permanent premises, it should be underlined that no news has been received by F4E for more than a year now. The Report of the Working Group, which Spain makes reference to, was finalised in September 2013 and no action has been taken since then. The recent letter of the Spanish Secretary of State does not provide any elements to believe that there is any real progress on the issue. As mentioned several times to the Spanish authorities and to the Governing Board, the working space currently made available to the Joint Undertaking is not sufficient and now results to increasing problems which impedes F4E and its staff to operate in reasonable conditions. With the significant sustained effort to fill all the available positions and reduce the vacancy rate, the situation is getting worse every month. In a recent survey amongst F4E staff, the working space conditions were cited as one of the major difficulties and concern.

32. Fusion for Energy has already adopted most of the implementing rules mentioned by the Court — parental leave, family leave, pension rights, appraisal of the Director, classification in grade, part-time. Regarding the rules on temporary agents, they were submitted early 2013 for approval to the Commission but the latter did not provide its answer, hence making impossible the submission to the Governing Board for approval in accordance with Article 110 of the Staff Regulations. The latter was also the case for a certain number of additional draft Implementing Rules submitted to the COM for approval in 2013. In the meanwhile, the reform of the Staff Regulations entered into force on 1st January 2014, making necessary new adjustments. Fusion for Energy has already taken the necessary steps and submitted to its Governing Board several Commission rules to apply by analogy, including updated provisions on part-time and classification in grade which were necessary following the reform. In addition, the consultations with the Staff Committee on other rules are taking place in line with the new Article 110. We therefore expect to make further progress during the year, providing the Commission answers within a reasonable delay to Fusion for Energy potential requests for derogations. Finally, in respect of some rules

— in particular use and engagement of temporary agents, use and engagement of contract agents, appraisal and reclassification, unpaid leave for contract and temporary agents — it was agreed with the Commission to use common model decisions that are currently being drafted by the Permanent Working Group composed of Agencies and Commission representatives.

REPORT
on the annual accounts of the SESAR Joint Undertaking for the financial year 2013, together with the
Joint Undertaking's replies
(2014/C 452/07)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-5	59
Information in support of the statement of assurance	6	59
Statement of assurance	7-14	59
Opinion on the reliability of the accounts	12	60
Opinion on the legality and regularity of the transactions underlying the accounts ...	13	60
Comments on budgetary and financial management	15-18	61
Implementation of the budget	15	61
Multilateral Framework Agreement (MFA)	16-18	61
Other matters	19-27	61
Legal framework	19-20	61
Internal audit function and the Commission's Internal Audit Service	21	61
Monitoring and reporting of research results	22-23	61
Conflicts of interest	24	62
The Commission's Second Interim Evaluation	25-26	62
Follow-up of previous observations	27	62

INTRODUCTION

1. The SESAR Joint Undertaking (SJU), located in Brussels, was set up in February 2007 ⁽¹⁾ in order to manage the technological component 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 two-term 'development phase' (term 1: 2008-2016 funded by the 2008-2013 programming period; term 2: 2017-2024 funded by the 2014-2020 programming period) managed by the SJU 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' (2014-2024) to be led by industry and stakeholders for the large-scale production and implementation of the new ATM infrastructure.
3. The SJU 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 became members of the Joint Undertaking. They comprise aircraft manufacturers, ground and airborne equipment manufacturers, air navigation service providers and airport authorities.
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 statements ⁽²⁾ and the reports on the implementation of the budget ⁽³⁾ for the financial year ended 31 December 2013, and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

8. In accordance with Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 ⁽⁴⁾, 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

⁽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 Council Regulation (EC) No 1361/2008 (OJ L 352, 31.12.2008, p. 12).

⁽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.

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

⁽⁴⁾ OJ L 328, 7.12.2013, p. 42.

- (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 officer⁽⁵⁾, 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 Council⁽⁶⁾ 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 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 2013 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 2013 are, in all material respects, legal and regular.

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

⁽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.

⁽⁶⁾ Article 107 of Regulation (EU) No 1271/2013.

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

15. The final 2013 budget adopted by the Administrative Board included commitment appropriations of 64,3 million euro and payment appropriations of 105,4 million euro. The utilisation rates for commitment and payment appropriations were 99,6 % and 94,7 % respectively.

Multilateral Framework Agreement (MFA)

16. At 31 December 2013, the SJU development phase consisted of project work by 16 members (including Eurocontrol) on programme activities involving more than 100 private and public entities and subcontractors. Of the 358 SESAR programme projects under the 3rd MFA, 333 (93 %) were being implemented or had been completed.

17. Of the 595 million euro in co-financing contributions payable by the European Union and Eurocontrol to the other 15 members under the 3rd MFA, 100 % had been committed and 55 % (316 million euro) had been paid out at 31 December 2013, while the remaining 45 % (279 million euro) is expected to be paid by 31 December 2016.

18. In 2013 the Joint Undertaking concluded its 4th MFA, which came into force on 1 January 2014 for the remaining three years of the Joint Undertaking's operating life ⁽⁷⁾.

OTHER MATTERS***Legal framework***

19. On 13 December 2013 the SJU's Administrative Board, in agreement with the Commission, adopted on a provisional basis the SJU Financial Rules for the 2014-2020 programming period, pursuant to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council, with effect from 1 January 2014.

20. The SJU's Financial Rules are subject to the forthcoming opinions and decision of the Commission, particularly in relation to the continuation of derogations of funding that were in place in the previous programming period.

Internal audit function and the Commission's Internal Audit Service

21. In accordance with the IAS/IAC coordinated strategic audit plan for the SJU for 2012-2014, the IAS carried out a limited review of the closing procedure applicable to grant management projects ⁽⁸⁾ and a risk assessment of information technology (IT), and the IAC carried out a compliance audit of procurement and contract management ⁽⁹⁾ and a review of the ABAC Workflow authorisations in 2013.

Monitoring and reporting of research results

22. In 2013 the SJU continued to implement its policy on the monitoring and reporting of research results through the publication on 31 May 2013 of its Annual Report on the Joint Undertaking's monitoring of the implementation of the Intellectual Property provisions in all financial years prior to 2013, and through its Administrative Board's adoption on 30 October 2013 of the foreground list compiled and the related ownership status for all financial years prior to 2013.

23. In addition, the SJU disseminated research foreground by making available detailed information on deliverables and their processes to the relevant stakeholders on its extranet, and by publishing general summary details of 2013 deliverables in its 2013 annual activity report.

⁽⁷⁾ The 4th MFA provides for the (i) reduction in the number of projects to 250, primarily through mergers in order to improve project management efficiency and (ii) the allocation of 38 million euro in funding for new operational activities, initiatives primarily from the release of funding from existing operational activities due to achieved cost savings.

⁽⁸⁾ The Final Report dated 21 October 2013 noted the need for evidence of comprehensive technical reviews encompassing all sources of assurance and the need for a consistent document-management system.

⁽⁹⁾ The Final Report dated 7 August 2013 noted the need for enhanced guidance on roles, responsibilities and authority limits, and the need to adopt a 'Deliverable identification and storage procedure'.

Conflicts of interest

24. The SJU has put in place specific measures to prevent conflicts of interest with respect to its three key stakeholders: Administrative Board members, employees and experts. These are adequately documented in a comprehensive written procedure, which was updated in 2012.

The Commission's Second Interim Evaluation ⁽¹⁰⁾

25. The Commission's Second Interim Evaluation was carried out from October 2013 to March 2014 and assessed the Joint Undertaking in terms of implementation of the regulation, working methods, results obtained and general financial situation.

26. The report contains two main recommendations, the first one on the need to better address the specific information and communication needs of Member States which are different from the more technical needs of the Joint Undertaking members ⁽¹¹⁾; the second one on the need to continue efforts to improve the rate of completion of the Joint Undertaking's annual goals (as stated in its Annual Work Programme) which increased from approximately 60 % in 2010 to 82 % by the end of 2012.

Follow-up of previous observations

27. The improvements as regards the ex-ante control area have been implemented.

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
Vitor Manuel da SILVA CALDEIRA
President

⁽¹⁰⁾ Second Mid-Term Evaluation of the SESAR Joint Undertaking (June 2014).

⁽¹¹⁾ Based on a survey of Member States representatives sitting on the Single Sky Committee (SSC) established to support the European Commission (DG MOVE) in the implementation of the Single European Sky.

ANNEX

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> <ul 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);

	<p>(e) supervising the execution of agreements between members and the Joint Undertaking;</p> <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 2013</p> <p><i>SESAR Joint Undertaking 2013 final accounts</i></p>	<p>Budget</p> <p>84 141 537 euro for commitments</p> <p>105 486 020 euro for payments</p> <p>Staff at 31 December 2013</p> <p>The 2013 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 2013, as in 2012:</p> <ul style="list-style-type: none"> — 30 temporary staff, recruited externally, — 6 staff seconded by the SJU Members in accordance with Article 8 of Regulation (EC) No 219/2007,

	<ul style="list-style-type: none">— 3 contractual staff,— 2 SNEs. <p>Assigned to</p> <p>Operational tasks: 26</p> <p>Administrative and support tasks: 14</p> <p>Mixed tasks: 1</p>
Activities and services provided in 2013	See the Joint Undertaking's annual activity report for 2013 at http://www.sesarju.eu/

Source: Information supplied by the SESAR Joint Undertaking

THE JOINT UNDERTAKING'S REPLIES

Paragraph 26 states that the Commission's Second Interim Evaluation report contains two main recommendations. In this respect, in order to provide to the readers full context and to reflect the entire conclusion, the SJU would like to add that regarding the results obtained by the SJU, the Second mid-term evaluation further specifies that 'The SJU has achieved most of the mid-term objectives under the framework of the SESAR programme. The delivery of Annual Work Programmes improved during the reference period. The SJU took appropriate measures to improve the annual completion rate, and it is recommended that the SJU continue its efforts to improve the rate of completion of its stated goals (cf. Final Report Chapter 8. Conclusions/III Results obtained by the SJU).'

In addition, the second mid-term evaluation concludes that 'overall, the SJU undertook the tasks assigned to it during the evaluation period (2010-2012) effectively, thus contributing to the SESAR Programme. It is assessed that the SJU is operating according to the rules and procedures governing it. The SJU has proved to be a structure that can adapt to specific needs.' (cf. Final Report Chapter 8. Conclusions/V Overall conclusion).

REPORT**on the annual accounts of the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2013,
together with the Joint Undertaking's replies**

(2014/C 452/08)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Introduction	1-5	68
Information in support of the statement of assurance	6	68
Statement of assurance	7-14	68
Opinion on the reliability of the accounts	12	69
Opinion on the legality and regularity of the transactions underlying the accounts ...	13	69
Comments on budgetary and financial management	15-17	70
Implementation of the budget	15	70
Calls for proposals	16-17	70
Other matters	18-26	70
Legal framework	18	70
Internal audit function and the Commission's Internal Audit Service	19-20	70
Monitoring and reporting of research results	21-23	70
Conflicts of interest	24-25	71
The Commission's Second Interim Evaluation	26	71

INTRODUCTION

1. The Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking), located in Brussels, was set up in May 2008 ⁽¹⁾ for the period up to 31 December 2017.
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 Programme ⁽²⁾ 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 ⁽³⁾.
3. The founding members of the Joint Undertaking are the European Union, represented by the Commission, and the European Fuel Cell and Hydrogen Joint Technology Initiative Industry Grouping. The Research Grouping N.ERGHY became a member in July 2008.
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, of which the proportion earmarked for running costs must not exceed 20 million euro. The Industry and Research Groupings are expected to contribute 50 % of the running costs and should contribute to the funding of operational activities through in-kind ⁽⁴⁾ contributions of the legal entities participating in the activities at least equal to the EU financial contribution.
5. The Joint Undertaking was granted its financial autonomy on 15 November 2010.

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 Fuel Cells and Hydrogen Joint Undertaking, which comprise the financial statements ⁽⁵⁾ and the reports on the implementation of the budget ⁽⁶⁾ for the financial year ended 31 December 2013, 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 2343/2002 ⁽⁷⁾, 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.

⁽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⁾ The Seventh Framework Programme, adopted by 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) (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.

⁽³⁾ The Annex summarises the Joint Undertaking's competences, activities and available resources. It is presented for information purposes.

⁽⁴⁾ According to Article 12(3) of the Annex to Regulation (EC) No 521/2008, which stipulates that the 'operational costs of the FCH Joint Undertaking shall be covered through the financial contribution of the Community, and through in-kind contributions from the legal entities participating in the activities'.

⁽⁵⁾ 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.

⁽⁶⁾ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

⁽⁷⁾ OJ L 357, 31.12.2002, p. 72.

- (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 officer⁽⁸⁾, 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 Council⁽⁹⁾ 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 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 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 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 2013 are, in all material respects, legal and regular.

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

⁽⁸⁾ 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.

⁽⁹⁾ Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

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

15. The final 2013 budget adopted by the Governing Board included commitment appropriations of 74,5 million euro and payment appropriations of 59,7 million euro. The utilisation rates for commitment and payment appropriations were 98,9 % and 56,7 % respectively. The latter results from the postponement of the funding of three projects.

Calls for proposals

16. At 31 December 2013, the FCH Joint Undertaking programme consisted of 130 grant agreements resulting from five annual calls (2008-2012), with a further 21 grant agreements anticipated from the 2013-1 call currently under negotiation and an estimated 5 to 10 from the launching of the final 2013-2 call.

17. The calls for proposals organised in 2008, 2009, 2010, 2011 and 2012 resulted in grant agreements totalling 365 million euro, amounting to 81 % of the maximum EU contribution to the Joint Undertaking for research activities of 452,5 million euro. The remaining 19 % were allocated to the 2013-1 and 2013-2 calls (respectively 64,5 million euro and 23 million euro), thus ensuring full consumption of the maximum EU contribution.

OTHER MATTERS***Legal framework***

18. The new Financial Regulation applicable to the general budget of the Union was adopted on 25 October 2012 and took effect on 1 January 2013⁽¹⁰⁾. However, the model financial regulation for public-private partnership bodies referred to in Article 209 of the new Financial Regulation did not enter into force until 8 February 2014⁽¹¹⁾. The financial rules of the Joint Undertaking were amended on 30 June 2014 to reflect these changes.

Internal audit function and the Commission's Internal Audit Service

19. In accordance with the IAS/IAC coordinated strategic audit plan for the FCH Joint Undertaking for 2011-2013, the FCH Joint Undertaking Internal Audit Capability (IAC) carried out one audit on 'Grant Management-negotiation, contracting and prefinancing' during 2013 and performed other assurance and consultancy services⁽¹²⁾. The Final Report on 'Grant Management' noted the need to reduce the 'Time to Grant' and 'Time to Close Negotiations' and the need to clarify some aspects of the Joint Undertaking's procedure for 'Financial Viability Checks'.

20. The FCH Joint Undertaking, along with the ARTEMIS, Clean Sky, Eniac and IMI Joint Undertakings, was the subject of an IT Risk Assessment on the common IT infrastructures they share by the Commission Internal Audit Service (IAS)⁽¹³⁾.

Monitoring and reporting of project research results

21. The Seventh Framework Programme (FP7) Decision⁽¹⁴⁾ establishes a monitoring and reporting system related to the protection, dissemination and transfer of research results.

⁽¹⁰⁾ 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).

⁽¹¹⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽¹²⁾ E.g. annual assessment of the level of in-kind contributions, advice on the Annual Activity Report process and participation in the communication campaigns of the Joint Undertaking on financial control and audit matters.

⁽¹³⁾ 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.

⁽¹⁴⁾ Article 7 of Decision No 1982/2006/EC 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. In 2013 the FCH Joint Undertaking increased its own capacity to monitor and report on the research results of its projects and to assess the achievement of its programme through the hiring of a Knowledge Management and Policy officer. It also introduced a newly-developed IT tool, TEMONAS (TEchnology MONitoring and ASsessment), to analyse and synthesise the results of the finished projects and reported on its website the first public foreground deliverables arising from completed projects.

23. The FCH Joint Undertaking is also exploring the possibility of using the Commission's IT system for the monitoring purposes mentioned above and of developing its reporting on results, in line with the comments included in the 2012 Commission Annual Progress Report on the activities of the Joint Undertakings⁽¹⁵⁾.

Conflicts of interest

24. The FCH Joint Undertaking has put specific measures in place to prevent conflicts of interest in respect of its three key stakeholders: Governing Board members, experts and employees.

25. These are being documented in a comprehensive written procedure expected to be adopted in the second half of 2014. It will include a clear definition of what should be considered as a conflict of interest, a database regularly updated to include all information related to conflicts of interest and a process for managing them.

The Commission's Second Interim Evaluation⁽¹⁶⁾

26. The Commission's Second Interim Evaluation of the FCH Joint Undertaking was carried out from November 2012 to May 2013. The report contained several recommendations to the FCH Joint Undertaking. These included the assignment of more resources to operations through the sharing of administrative functions with other Joint Undertakings and/or returning them to the Commission's services, a sharper focus for the research strategy for the continuation of the FCH Joint Undertaking in Horizon 2020 in accordance with three main principles (alignment with EU policies; areas where Europe has or can achieve leadership; adaptation to the changing needs of the sector) and the strengthening of the capacity for change.

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

⁽¹⁵⁾ Report from the Commission to the European Parliament and the Council. Annual Progress Report on the activities of the Joint Technology Initiative Joint Undertakings in 2012 (SWD(2013) 539 final).

⁽¹⁶⁾ Second Interim Evaluation of the FCH Joint Undertaking of July 2013.

ANNEX

Fuel Cells and Hydrogen 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 Union 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 TFEU.</p> <p>Council Regulation (EC) No 521/2008 of 30 May 2008 setting up the FCH Joint Undertaking, as amended by Regulation (EU) No 1183/2011 (OJ L 302, 19.11.2011, p. 3).</p>
<p>Competences of the Joint Undertaking</p> <p><i>as defined in Council Regulation (EC) No 521/2008, amended by Regulation (EU) No 1183/2011</i></p>	<p>Objectives</p> <p>The Fuel Cells and Hydrogen Joint Undertaking shall contribute to implementation of the Seventh Framework Programme and, in particular, the specific 'Cooperation' programme themes of 'Energy', 'Nanosciences, nanotechnologies, materials and new production technologies', 'Environment (including climate change)', and 'Transport (including aeronautics)'.</p> <p>It shall in particular:</p> <ul style="list-style-type: none"> (a) aim at placing Europe at the forefront of fuel cell and hydrogen technologies worldwide and at enabling the market breakthrough of fuel cell and hydrogen technologies, thereby allowing commercial market forces to drive the substantial potential public benefits; (b) support research, technological development and demonstration (RTD) in the Member States and countries associated with the Seventh Framework Programme (the associated countries) in a coordinated manner, so as to overcome market failure and focus on developing market applications and thereby facilitating additional industrial efforts towards the rapid deployment of fuel cells and hydrogen technologies; (c) support implementation of the RTD priorities of the JTI on Fuel Cells and Hydrogen, notably by awarding grants following competitive calls for proposals; (d) (d) aim to encourage increased public and private research investment in fuel cells and hydrogen technologies in the Member States and associated countries.
<p>Governance</p> <p><i>as defined in Council Regulation (EC) No 521/2008, amended by Regulation (EU) No 1183/2011</i></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> <p>(a) advise on the scientific priorities for the annual and multiannual implementation plans proposal;</p> <p>(b) advise on the scientific achievements described in the annual activity report;</p> <p>(c) advise on the composition of the peer review committees.</p> <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 associated country. Its most important tasks are to provide an opinion on programme progress at the FCH JU, monitor compliance and respect of targets and coordinate with national programmes to avoid overlapping.</p> <p>5 — The Stakeholders' General Assembly</p> <p>The SGA 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 third countries. It is convened once a year. The SGA 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 2013</p> <p><i>FCH Joint Undertaking 2013 final accounts</i></p>	<p>Budget (commitment appropriations)</p> <p>82,5 million euro</p> <p>Staff at 31 December 2013</p> <p>2013 establishment plan of 20 staff posts (18 Temporary members of staff and 2 Contract staff), of which 17 were filled at year-end 2013; these were assigned to support operational activities (12 FTE) and to administrative tasks (5 FTE).</p>
<p>Activities and services provided in 2013</p>	<p>See the FCH JU annual activity report for 2013 at http://www.fch-ju.eu/page/documents</p>

Source: Information supplied by the FCH Joint Undertaking.

THE JOINT UNDERTAKING'S REPLIES

19. The FCH JU has developed an action plan to address the recommendations of the IAC audit on 'Grant Management-negotiation, contracting and prefinancing'. Part of the actions are implemented and the others are under revision in the context of an update of the action plan to take into account the impact of the new legal environment and in particular the new rules under H2020.

20. The FCH JU has developed an action plan to address the recommendations of the IAS IT Risk Assessment and will implement these actions by year end 2014.

26. A draft action plan is being revised by a working group set up by the Governing Board and comprising representatives of the members (EC, NEW-IG, N.ERGHY), of the SRG (State Representative Group) and of the Programme Office. Once revised, it will be presented at a next meeting of the FCH Governing Board.

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