



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts of the Fuel Cells and Hydrogen Joint
Undertaking for the financial year 2017

Together with the Joint Undertaking's reply

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The Joint Undertaking's reply

INTRODUCTION

Establishment of the FCH Joint Undertaking

1. The Joint Undertaking for the implementation of the Joint Technology Initiative on Fuel Cells and Hydrogen (FCH Joint Undertaking), located in Brussels, was set up in May 2008 for the period up to 31 December 2017 and started working autonomously on 15 November 2010¹. In May 2014, the Council extended the lifetime of the Joint Undertaking for the period up to 31 December 2024².

2. The FCH Joint Undertaking is a public-private partnership in the field of hydrogen and fuel cells technology research and innovation. The founding members of the Joint Undertaking are the European Union (EU), represented by the Commission, the Industry Grouping (Hydrogen Europe) and the Research Grouping (Hydrogen Europe Research).

Governance

3. The governance structure of the FCH Joint Undertaking includes the following bodies: the Governing Board, the Executive Director, the Scientific Committee, the FCH States Representatives Group and the Stakeholder Forum.

4. The Governing Board is composed of ten members, with six representatives from the Industry Grouping, three from the Commission and one from the Research Grouping. It is responsible for the strategic orientation and operations of the Joint Undertaking and supervises the implementation of its activities. The Executive Director is responsible for the day-to-day management of the Joint Undertaking.

5. The Scientific Committee is composed of up to nine members reflecting a balanced representation of expertise from academia, industry and regulatory bodies. It provides

¹ Council Regulation (EC) No 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 (OJ L 302, 19.11.2011, p. 3).

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

advice on the scientific priorities to be addressed by the annual work plans and on the scientific achievements described in the annual activity report.

6. The FCH States Representatives Group consists of one representative of each Member State and country associated with Horizon 2020 and gives its opinion on the Joint Undertaking's strategic orientation and achievement of Horizon 2020 targets. The Stakeholder Forum is an annual event, where FCH stakeholders discuss FCH's activities and may provide comments.

Objectives

7. The objective of the FCH Joint Undertaking is to demonstrate by 2020 fuel cell and hydrogen technologies as one of the pillars of future European energy and transport systems. The Joint Undertaking seeks to foster the development of a strong, sustainable and globally competitive fuel cell and hydrogen sector in the EU.

Resources

8. The maximum EU contribution to the FCH Joint Undertaking's first phase of activities (FCH 1) is 470 million euro from FP7³. Contributions from the other members must be at least equal to the EU contribution.

9. The maximum EU contribution to the FCH Joint Undertaking's second phase of activities (FCH 2) is 665 million euro funded from Horizon 2020. Of this amount, a maximum of 570 million euro can be used to match the minimum contribution of the members from the Industry and Research Groupings (set at 380 million euro), and up to 95 million euro can be used to match any additional contribution from the members exceeding the minimum contribution⁴.

³ Article 5(1) of Regulation (EC) No 521/2008.

⁴ Article 3(1) of Regulation (EU) No 559/2014.

10. The members from the Industry and Research Groupings are expected to contribute resources of at least 380 million euro over the life span of the Joint Undertaking⁵. Of this amount, industry and research members have to incur costs of at least 285 million euro in implementing additional activities outside the work plan of the FCH Joint Undertaking⁶.

11. The administrative costs of the FCH Joint Undertaking are limited to 38 million euro, to be covered through financial contributions divided equally on an annual basis between the EU and the members from the Industry and Research Groupings⁷.

12. In 2017, the final budget for the FCH Joint Undertaking was 198,6 million euro (2016: 115,5 million euro). At 31 December 2017, the Joint Undertaking had 26 staff (2016: 26)⁸.

The Commission's evaluations

13. The Commission completed the final evaluation of the Joint Undertaking's FP7 activities and the interim evaluation of its Horizon 2020 activities in June 2017, which was followed by respective action plans prepared by the Joint Undertaking to address the recommendations raised in the evaluations. On this occasion, we include a section related to the Joint Undertaking's Action Plans in response to the evaluations, which is intended only for information purposes and does not form part of our audit opinion or observations.

⁵ Article 4(1) of Regulation (EU) No 559/2014.

⁶ As provided for in Article 4(2)(b) of Regulation (EU) No 559/2014, additional activities are contributions in kind for activities outside the work plan and the budget of the Joint Undertaking but contributing to the objectives of the FCH Joint Technology Initiative. The corresponding activities should be set out in an annual additional activities plan indicating the estimated value of those contributions. In line with Article 4(4) of the same regulation, the costs of additional activities must be certified by an independent external auditor and are not subject to audit by the Joint Undertaking, the ECA or by any EU body.

⁷ Article 13(2) of the Statutes of the FCH 2 Joint Undertaking (Annex I of Regulation (EU) No 559/2014.

⁸ Further information about the FCH Joint Undertaking and its activities are available at its website [http:// www.fch.europa.eu](http://www.fch.europa.eu).

OPINION

14. We have audited:

- (a) the accounts of the Joint Undertaking which comprise the financial statements⁹ and the reports on the implementation of the budget¹⁰ for the financial year ended 31 December 2017, and
- (b) the legality and regularity of the transactions underlying those accounts, as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

Opinion on the reliability of the accounts

15. In our opinion, the accounts of the Joint Undertaking for the year ended 31 December 2017 present fairly, in all material respects, the financial position of the Joint Undertaking at 31 December 2017, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally-accepted accounting standards for the public sector.

Opinion on the legality and regularity of revenue underlying the accounts

16. In our opinion, revenue underlying the accounts for the year ended 31 December 2017 is legal and regular in all material respects.

Opinion on the legality and regularity of payments underlying the accounts

17. In our opinion, payments underlying the accounts for the year ended 31 December 2017 are legal and regular in all material respects.

⁹ The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

¹⁰ The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Responsibilities of management and those in charge of governance

18. In accordance with Articles 310 to 325 of the TFEU and the Joint Undertaking's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally-accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Joint Undertaking's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

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

20. Those charged with governance are responsible for overseeing the entity's financial reporting process.

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

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

22. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to

fraud or error. In making those risk assessments, internal control relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. An audit also includes evaluating the appropriateness of accounting policies used, the reasonableness of accounting estimates made by the management and the overall presentation of the accounts.

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

24. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments (including those made for the purchase of assets) other than advances at the point they are made.

25. In preparing this report and Opinion, we considered the audit work of the independent external auditor performed on the Joint Undertaking's accounts as stipulated in Article 208(4) of the EU Financial Regulation¹¹.

26. The comments which follow do not call the ECA's opinions into question.

BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the 2017 budget

27. The final 2017 budget available for the Joint Undertaking's FP7 and Horizon 2020 programme implementation included commitment appropriations of 127,8 million euro in and in payments appropriation of 198,6 million euro. The implementation rates for commitment and payment appropriations were 96 % and 89 %, respectively. The payment appropriations were mainly used to pay pre-financing for the 2016 and 2017 calls.

¹¹ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

Multiannual budget implementation under FP7

28. Out of the maximum of 470 million euro of FP7 funds allocated to the FCH Joint Undertaking for the implementation of FCH 1, by the end of 2017, the EU had made cash contributions of a total amount of 386,7 million euro, and in-kind contributions of a total amount of 19,1 million euro.

29. Out of the minimum of 470 million euro of in-kind and cash contributions to be made by the Industry and Research Grouping members to the operational activities of the FCH Joint Undertaking, by the end of 2017, the Governing board had validated contributions of 396,2 million euro. In addition, in-kind contributions to operational activities of 55,8 million euro had been reported to the FCH Joint Undertaking by the end of 2017.

30. Consequently, at the end of 2017, the total contribution of the Industry and Research Grouping members to the Joint Undertaking amounted to 452 million euro, compared to the cumulative EU contribution of 405,8 million euro.

31. Out of the total operational and administrative budget of 490 million euro for FCH 1 activities¹², by the end of 2017, the Joint Undertaking had made commitments of 481,7 million euro (98,3 % of the available budget) and payments of 418,5 million euro. According to the Joint Undertaking's payment plan for the on-going FP7 projects, another 25,7 million euro will be paid in 2018 and 17,4 million euro in the subsequent years. Hence, the final implementation ratio for the FCH 1 programme is estimated at 94,3 % of the total FCH 1 budget.

Multiannual budget implementation under Horizon 2020

32. Out of the maximum of 665 million euro of Horizon 2020 funds allocated to the FCH Joint Undertaking for the implementation of FCH 2, by the end of 2017, the EU had contributed in cash a total amount of 234,3 million euro.

¹² The total is composed of the 470 million euro EU cash contribution funded by the FP7 programme and a 20 million euro cash contribution to administrative costs from other members.

33. The members from the Industry and Research Groupings are not obliged to make a minimum amount of in-kind contributions to the Joint Undertaking's FCH 2 activities. At the end of 2017, the industry and research members had reported in-kind contributions of 25,1 million euro for operational activities¹³, of which 0,6 million euro had been validated by FCH Governing Board. This reflects the fact that in 2017 the FCH 2 projects were still in their early stages. The committed in-kind contributions according to the signed grant agreements as at 31.12.2017 amount to 137,4 million euro¹⁴. In addition, the Governing Board had validated cash contributions by the industry and research members to the Joint Undertaking's administrative cost of 1,3 million euro.

34. Out of the at least 285 million euro of industry and research members' contributions to be made to additional activities outside the work programme of the Joint Undertaking, by the end of 2017, the members had already reported 558,5 million euro¹⁵, of which 382,2 million euro had been certified, and therefore the target was exceeded by far. However, as we have no right to audit the members' in-kind contributions to additional activities, we cannot provide an opinion on their nature, quality and reality.

35. Consequently, by the end of 2017, the total contributions from the industry and research members amounted to 585 million euro (of which 95,5 % are contributions to additional activities), compared to the EU cash contribution of 234,3 million euro (see also paragraph 41).

36. Out of the maximum operational and administrative budget for FCH 2 of 684 million euro¹⁶, by the end of 2017, the Joint Undertaking had made commitments of 407,2 million euro and payments of 223,3 million euro.

¹³ FCH Joint Undertaking Annual Activity Report, p. 36.

¹⁴ FCH Joint Undertaking Annual Activity Report, p. 13, table 1.1.2.

¹⁵ FCH Joint Undertaking Annual Activity Report, p. 14, table 1.1.3.

¹⁶ The total is composed of the 665 million euro EU cash contribution funded by the Horizon 2020 programme and a 19 million euro cash contribution to administrative costs from industry and research members.

INTERNAL CONTROLS

Internal control framework

37. The Joint Undertaking has set up ex-ante control procedures based on financial and operational desk reviews. For FP7 interim and final payments, the Joint Undertaking performs ex-post audits at the beneficiaries, whilst for Horizon 2020 project cost claims the Commission's Common Audit Service (CAS) is responsible for the ex-post audits.

38. For FP7 payments, the residual error rate for the ex-post audits reported by the Joint Undertaking at the end of 2017 was 1,13 %¹⁷. In 2017, the Joint Undertaking - together with the Common Audit Service (CAS) of DG RTD - launched the first ex-post audit of a random and risk-based sample of Horizon 2020 interim cost claims of which the results will be reported in the Joint Undertaking's annual activity report 2018.

39. Based on an assessment of the Joint Undertaking's internal control system and substantive testing of revenue, payment, grant and procurement operations and a review of a sample of finalised ex-post audits including recoveries arising from the errors detected, the audit results provided us with reasonable assurance that the overall residual error rate for the Joint Undertaking is below materiality.

OTHER ISSUES

Leverage of contributions from other members

40. One of the main objectives of the Joint Undertaking is to leverage contributions from industry members in the area of its activities¹⁸. According to the FCH2's founding regulation, the minimum leverage factor for both, operational and additional activities amounts to

¹⁷ FCH Joint Undertaking Annual Activity Report, p. 69 and 74.

¹⁸ Recital 4 of Regulation (EU) No 559/2014 states that this partnership should be based on a balanced contribution from all partners.

0,67¹⁹. The leverage factor, as defined in the interim evaluation report, achieved by the Joint Undertaking by the end of 2017 amounted to 1,32²⁰ taking into account both operational and additional activities (including 0,35²¹ for the in-kind contributions to the operational activities alone). FCH 2's founding regulation does not oblige industry members to make a minimum amount of in-kind contributions to the operational activities of the Joint Undertaking²². The final leverage factor for the in-kind contributions to the operational and additional activities will be calculated at the end of the Horizon 2020 programme. As we have no right to audit in-kind contributions to additional activities we cannot provide an opinion on the nature, quality or reality of such contributions²³.

INFORMATION ON THE COMMISSION'S EVALUATIONS

41. The Commission's Final Evaluation on FCH Joint Undertaking operating under FP7 covered the period between 2008 and 2016²⁴, while the Interim Evaluation on FCH 2 Joint

¹⁹ Total of minimum contributions of the industry members to the Joint Undertaking's operational and additional activities (380 million euro) divided by the maximum EU cash contribution to the Joint Undertaking (570 million euro).

²⁰ This estimated leverage takes into account the private members' cash contributions actually paid (1,3 million euro) plus the in-kind contributions of private members (137,4 million euro) committed in the signed grant agreements plus the certified in-kind contributions to additional activities (382,2 million euro), divided by the cash contributions committed by the Commission in the signed grant agreements (395,6 million euro).

²¹ This estimated leverage takes into account the private members' cash contributions actually paid (1,3 million euro) plus the in-kind contributions of private members (137,4 million euro) committed in the signed grant agreements, divided by the cash contributions committed by the Commission in the signed grant agreements (395,6 million euro).

²² Article 4(1) and 4(2) of Regulation (EU) No 559/2014 specify that industry and research members should make total contributions of at least 380 million euro over the life span of the Joint Undertaking, out of which at least 285 million euro should consist of costs incurred by them in implementing additional activities outside the work plan of the Joint Undertaking.

²³ In accordance with article 4 (4) of Regulation (EU) No 559/2014 the cost of additional activities are certified by an independent external auditor appointed by the Joint Undertaking. The cost for such activities shall however, not be audited by the Joint Undertaking or any Union body.

²⁴ Final evaluation of the FCH Joint Undertaking operating under FP7.
<https://ec.europa.eu/research/evaluations/pdf/fch.pdf>

Undertaking operating under H2020 covered the period from 2014 to 2016²⁵. The evaluations were carried out with the assistance of independent experts as foreseen in the FCH Council Regulations²⁶, and covered the performance of the Joint Undertaking in terms of relevance, efficiency, effectiveness, coherence, and EU added value, with additional consideration of openness and transparency and research quality. The results of the evaluations were taken into account in the report that the Commission sent to the European Parliament and Council in October 2017²⁷.

42. In response to the recommendations raised by the evaluators²⁸, the Joint Undertaking prepared an Action Plan that was endorsed by the FCH 2 Governing Board in March 2018. The action plan includes a wide set of actions to be implemented by the Joint Undertaking²⁹, for which a certain number of activities have already been initiated³⁰, the majority should be

²⁵ Interim evaluation of the FCH 2 Joint Undertaking (2014-2016) operating under Horizon 2020 <https://ec.europa.eu/research/evaluations/pdf/fch2.pdf>

²⁶ Commission statutory evaluations in application of Article 11 of Council Regulation (EU) No 521/2008 on FCH Joint Undertaking, and article 11 of Council Regulation (EU) No 559/2014 establishing the FCH 2 Joint Undertaking.

²⁷ Commission Staff Working Document. Interim Evaluation of the Joint Undertakings operating under Horizon 2020 {SWD(2017) 339 final}.

²⁸ Recommendations include: the need to improve the role of the States Representatives Group and of the advisory bodies; coherence with other EU programmes; the need to enhance projects at lower Technology Readiness Level (TRL); enhance participation of countries less active in FCH projects and fostering more participation of regions and Institutes of Higher Education; provide assistance on financial issues (most suitable funding options), and support the commercial deployment and better exploitation of EU intellectual property rights; improve communication with stakeholders, decision makers, regions and public to increase public awareness of FCH technologies.

²⁹ Specific actions included in the action plan in response to the evaluator's recommendations include: reinforce and enhance the role of the States Representatives Group; increase regions' and cities' participation; improve interactions with external stakeholders for future stakeholders' fora; links with European Commission to be strengthened for a better coordination with other EU initiatives; to reinforce the dissemination and exploitation of results.

³⁰ Activities already initiated include: analysis of the Multi-Annual Work Programme with the States Representative Group to identify gaps, and address collaboration with regions and cities; to review the tasks of the FCH 2 Financial Engineering Officer to seek synergies with other EU instruments (in particular of the Risk-Sharing Finance Facility of the EIB); a study launched in March 2017 to explore areas of highest added-value on EU value chains; discussions at

implemented in 2018 and 2019, while a small number will be taken under consideration for the next programming period³¹.

This Report was adopted by Chamber IV, headed by Mr Neven MATES, Member of the Court of Auditors, in Luxembourg at its meeting of 2 October 2018.

For the Court of Auditors

Klaus-Heiner LEHNE

President

Governing Board level on lower TRL activities in view of their inclusion in the next revision of the Multi-annual Work Programme.

³¹ In particular, the coherence and complementarities with other EU programmes in the areas of Transport and Energy.

Follow-up of previous years' comments

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

THE JU'S REPLY

40. The FCH 2 JU acknowledges that in accordance with the Council Regulation¹ (EU) 559/2014 of 6 May 2014 establishing the FCH 2 JU, the Court has no right to audit in-kind contributions in additional activities. It would like to stress that the JU has developed a methodology agreed by its Governing Board on 9 December 2016², which provides for robust controls for the collection, reporting and certification of additional activities and includes a model audit programme and audit certificate for the certification by independent external auditors.

¹ OJ L 169, 7.6.2014, p. 108–129

² <https://www.fch.europa.eu/page/in-kind-additional-activities>