Basic information

2011/2242(DEC) DEC - Discharge procedure	Procedure completed
2010 discharge: Fuel Cells and Hydrogen Fuel Cell Joint Undertaking **Subject** 8.70.03.07 Previous discharges	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	MACOVEI Monica (PPE)	03/03/2011
	Shadow rapporteur HERCZOG Edit (S&D) GERBRANDY Gerben-Jan (ALDE) STAES Bart (Verts/ALE) CZARNECKI Ryszard (ECR) SØNDERGAARD Søren Bo (GUE/NGL) ANDREASEN Marta (EFD) EHRENHAUSER Martin (NI)	

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Budget	ŠEMETA Algirdas

Key events

Date	Event	Reference	Summary
26/07/2011	Non-legislative basic document published	COM(2011)0473	Summary

12/10/2011	Committee referral announced in Parliament		
27/03/2012	Vote in committee		
04/04/2012	Committee report tabled for plenary	A7-0110/2012	Summary
10/05/2012	Decision by Parliament	T7-0192/2012	Summary
10/05/2012	Results of vote in Parliament		
10/05/2012	Debate in Parliament		
10/05/2012	End of procedure in Parliament		
17/10/2012	Final act published in Official Journal		

Technical information

Procedure reference	2011/2242(DEC)
Procedure type	DEC - Discharge procedure
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	CONT/7/07281

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE474.058	06/02/2012	
Amendments tabled in committee		PE483.676	07/03/2012	
Committee report tabled for plenary, single reading		A7-0110/2012	04/04/2012	Summary
Text adopted by Parliament, single reading		T7-0192/2012	10/05/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	06086/2012	08/02/2012	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2011)0473	26/07/2011	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary

CofA	Court of Auditors: opinion, report	N7-0034/2012 OJ C 368 16.12.2011, p. 0040	25/10/2011	Summary

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Decision 2012/0610 OJ L 286 17.10.2012, p. 0328	Summary

2010 discharge: Fuel Cells and Hydrogen Fuel Cell Joint Undertaking

2011/2242(DEC) - 26/07/2011 - Non-legislative basic document

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2010, as part of the 2010 discharge procedure.

Analysis of the accounts of the **Fuel Cells and Hydrogen Joint Undertaking (FCH JU)**.

CONTENT: this Commission document sets out the consolidated annual accounts of the European Union for the financial year 2010 as prepared on the basis of the information presented by the institutions, organisations and bodies of the EU, in accordance with Article 129 (2) of the Financial Regulation applicable to the EU's General Budget, including the Fuel Cells and Hydrogen Joint Undertaking.

In 2010, the tasks and budget of this agency were as follows:

- **description of the tasks of the Joint Undertaking**: the Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking) located in Brussels, was set up in 2008 by Council Regulation (EC) No 521/2008 for the period up to 31 December 2017. The objectives of the FCH JU include supporting research, technological development and demonstration activities in the Member States and countries associated with the Seventh Framework Programme in a coordinated manner together with industry and research organisations in order to focus on developing market applications and hence facilitating additional industrial efforts towards a rapid deployment of fuel cells and hydrogen technologies;
- **budget of the Joint Undertaking for the 2010 financial year**: the maximum EU contribution to the FCH Joint Undertaking to cover running costs and research activities is EUR 470 million financed from the budget of the Seventh Framework Programme, of which the proportion earmarked for running costs must not exceed EUR 20 million. In 2010, the EU contribution amounted to EUR 97.4 million in commitments.

The complete version of the Joint Undertaking’s final accounts may be found at the following address: http://www.fch-ju.eu/sites/default/files/Accounts%202010%20FINAL%20signed_0.pdf

2010 discharge: Fuel Cells and Hydrogen Fuel Cell Joint Undertaking

2011/2242(DEC) - 10/05/2012 - Final act

PURPOSE: to grant discharge to the Fuel Cells and Hydrogen Fuel Cell Joint Undertaking in respect of the implementation of its budget for the financial year 2010.

NON-LEGISLATIVE ACT: Decision 2012/610/EU of the European Parliament on discharge in respect of the implementation of the budget of the Fuel Cells and Hydrogen Fuel Cell Joint Undertaking for the financial year 2010.

CONTENT: with the present decision, and in accordance with Article 319 of the Treaty on the Functioning of the European Union, the European Parliament grants discharge to the Executive Director of the Fuel Cells and Hydrogen Fuel Cell Joint Undertaking in respect of the implementation of its budget for the financial year 2010.

This decision is in line with the European Parliament's resolution adopted on 10 May 2012 and comprises a series of observations that form an integral part of the discharge decision (please refer to the summary of the opinion of 10/05/2012).

A parallel decision, 2012/611/EU, adopted on the same day, approves the closure of this Joint Undertaking's accounts for the 2010 financial year.

2010 discharge: Fuel Cells and Hydrogen Fuel Cell Joint Undertaking

2011/2242(DEC) - 25/10/2011 - Court of Auditors: opinion, report

PURPOSE: presentation of the EU Court of Auditors' report on the annual accounts of the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2010, together with the Joint Undertaking's reply.

CONTENT: in accordance with the tasks conferred on the Court of Auditors by the Treaty on the Functioning of the European Union, the Court presents to the European Parliament and to the Council, in the context of the discharge procedure, a Statement of Assurance as to the reliability of the annual accounts of each institution, body or agency of the EU, and the legality and regularity of the transactions underlying them, on the basis of an independent external audit.

This audit concerned, amongst others, the annual accounts of the Fuel Cells and Hydrogen (FCH) Joint Undertaking.

In the Court's opinion, the FCH Joint Undertaking's **Annual Accounts fairly present, in all material respects, its financial position as of 31 December 2010** and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation.

The Court also considers that the **transactions underlying the annual accounts** of the Fuel Cells and Hydrogen Joint Undertaking for the financial year ended 31 December 2010 are, in all material respects, **legal and regular.**

The report confirms that the maximum EU contribution to the FCH Joint Undertaking to cover running costs and research activities is EUR 470 million financed from the budget of the Seventh Framework Programme, of which the proportion earmarked for running costs must not exceed EUR 20 million. The Industry Grouping should contribute 50 % of the running costs (up to a maximum of EUR 10 million) and should contribute to the funding of research activities through in-kind contributions at least equal to the EU financial contribution.

The report also makes a series of observations on the budgetary and financial management of the Joint Undertaking, accompanied by the latter's response. The main observations may be summarised as follows:

The Court's observations:

- **delayed financial autonomy**: the Court is of the view that the period of 28 months from the date the Council Regulation came into force to the date of the actual financial autonomy on 15 November 2010 is excessive. As a result of the delayed financial autonomy, all the 2010 operational payments to beneficiaries were made during the last 6 weeks of 2010;
- **internal control systems**: at the end of 2010, the underlying business processes had not yet been formalised and had not been validated by the Accounting Officer as required by the Joint Undertaking's financial rules. The limited review of the IT controls showed that the Joint Undertaking has an adequate level of IT governance and practice for its size and mission, but the formalisation of policies and procedures is lagging behind in certain areas;
- **lack of host agreement**: according to the Council Regulation setting up the Joint Undertaking, a host agreement should be concluded between the Joint Undertaking and Belgium concerning office accommodation, privileges and immunities and other support to be provided by Belgium. However, as at the end of 2010, no such agreement had been signed.

The Joint Undertaking's response:

- **implementation of the budget**: the Joint Undertaking shares the Court's view that the period from the entry into force of the Council Regulation setting up the Joint Undertaking to the date of the actual financial autonomy was long. However, the Joint Undertaking would like to point out that all necessary steps were taken by the JU towards the autonomy (e.g. a readiness assessment report proving compliance with the autonomy criteria was submitted to the Commission on time) and therefore the delay in granting autonomy was the result of events out of the JU's control;
- **audit:** the Commission and the Joint Undertaking have taken action to ensure that the respective roles of the Commission's Internal Audit Service (IAS) and the Joint Undertaking's Internal Audit Manager (IAM) are clearly defined. The FCH Joint Undertaking is of the opinion that there is no need to amend the Joint Undertaking's financial rules. However, after finalisation of the revision of the Commission's Framework Financial Regulation, the Joint Undertaking will assess the need and appropriateness to amend its financial rules on all relevant aspects, including the audit function;
- **host state:** the Joint Undertaking has again contacted the Belgian authorities early June 2011 to finalise an agreeable text based on the Belgian proposal and the comments from the Commission.

Lastly, the Court of Auditors' report contains a **summary of the Joint Undertaking's activities** in 2010. The main tasks of the FCH Joint Undertaking may be described as follows:

- revision of the Multi Annual Implementation Plan (MAIP), launched in November 2010 with the focus on updating programme targets and priorities;
- drafting of the RTD priorities and 2010 call topics (25) with an indicative Joint Undertaking funding of EUR 89.1 million;
- publication of the 2010 call for proposals in June 2010 and evaluation of the proposals;
- development of the international cooperation with key partners (USA, Japan and Korea),
- exchange of information with the Member States and the Associated countries (information sessions);
- cooperation with the European Regions (via HyRaMP).

2010 discharge: Fuel Cells and Hydrogen Fuel Cell Joint Undertaking

2011/2242(DEC) - 08/02/2012

Having examined the revenue and expenditure accounts for the financial year 2010 and the balance sheet at 31 December 2010 of the Fuel Cells and Hydrogen Joint Undertaking, and the report by the Court of Auditors on the annual accounts of the Joint Undertaking for the financial year 2010, accompanied by the Joint Undertaking's replies to the Court's observations, the Council recommends the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2010.

However, the Council considers that observations made in the Court of Auditor's report call for a certain number of remarks:

- the Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts fairly present the financial position as at 31 December 2010 and the results of operations and cash flows for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for that financial year are legal and regular;
- the Council asks the Joint Undertaking to **formalise the business processes underlying its internal control systems**, and invites the Joint Undertaking's Accounting Officer to validate them without delay;
- it calls on the Joint Undertaking to set up as soon as possible the methodology to be used for the evaluation of in-kind contributions to projects;
- the Council encourages the Joint Undertaking to complete its Financial Rules.

2010 discharge: Fuel Cells and Hydrogen Fuel Cell Joint Undertaking

2011/2242(DEC) - 04/04/2012 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control adopted the report by Monica Luisa MACOVEI (EPP, RO) on discharge in respect of the implementation of the budget of the Fuel Cells and Hydrogen Joint Undertaking and called on the European Parliament to grant the Executive Director of the FCH Joint Undertaking discharge in respect of the implementation of the Joint Undertaking's budget for the financial year 2010.

Noting that the Court of Auditors stated that it has obtained reasonable assurances that the annual accounts for the financial year 2010 are reliable and that the underlying transactions are legal and regular, Members approve the closure of the Joint Undertaking’s accounts. However, they make a number of recommendations that need to be taken into account when the discharge is granted.

- **Budget and Financial Management**: Members note the low execution rate on Infrastructure payment appropriations, i.e. 15.39%, related to the late autonomy of the Joint Undertaking. They urge the Joint Undertaking, moreover, to inform the discharge authority about the measures adopted and implemented to redress the situation and enable a greater execution rate of its budget both in terms of commitments and payments;
- **Internal Control Systems**: Members call on the Joint Undertaking and in particular its Accounting Officer to formalise and validate the underlying business processes as required by its financial rules. They note that the Joint Undertaking has an adequate level of IT governance and practice for its size and mission but stress that formalisation of policies and procedures in strategic IT planning cycle, etc is lagging behind. They call on the Joint Undertaking to remedy the situation and provide the discharge authority with an up-to-date report on the matter;
- **Internal Audit**: Members take note that the Commission and the Joint Undertaking have taken action to ensure that the respective operational roles of the Commission’s Internal Audit Service and the Joint Undertaking’s internal auditing function are clearly defined;
- **Call for Proposals and Project Management**: Members note that the evaluation of the Call for Proposal 2010 was carried out by 32 independent experts and a chairperson, and that two independent observers monitored that the evaluation procedure was carried out in a fair, impartial and confidential manner. They call on the Joint Undertaking to inform the discharge authority on the verification mechanisms that it implements to ensure the full independence of experts and observers and therefore to mitigate the risks of conflicts of interests during the evaluation of tenders;
- **Lack of host State agreement**: Members reiterate that the Joint Undertaking should rapidly conclude a host agreement with Belgium concerning office accommodation, privileges and immunities and other support to be provided by Belgium to it.

Horizontal observations on the Joint Undertakings: Members underline that seven Joint Undertakings have so far been established by the European Commission under Article 187 of the Treaty on the Functioning of the European Union, and notes that the total Union contribution deemed necessary for the Joint Undertakings for their period of existence amounts to **EUR 11.5 billion** (for the financial year 2010 alone, the overall Union contribution amounted to EUR 505 million). Members call on the Commission to provide the discharge authority annually with consolidated information on the total annual funding per Joint Undertaking made from the general budget of the Union in order to ensure transparency and clarity on the use of the Union's funds and restore trust among the European taxpayers. They recall that Joint Undertakings are **public-private partnerships** and that as a consequence public and private interests are intertwined. The committee is of the opinion that under the circumstances the **likelihood of conflicts of interest should not be dismissed but addressed properly**. It calls therefore on the Joint Undertakings to inform the discharge authority on the verification mechanisms which exist in their respective structures to enable a proper management and prevention of conflicts of interest.

Lastly, the Court of auditors is asked to provide, within a reasonable deadline, a special report to Parliament, on the added value of the establishment of the Joint Undertakings.

2010 discharge: Fuel Cells and Hydrogen Fuel Cell Joint Undertaking

2011/2242(DEC) - 10/05/2012 - Text adopted by Parliament, single reading

The European Parliament adopted a decision to grant discharge to the Executive Director of the FCH Joint Undertaking in respect of the implementation of the Joint Undertaking’s budget for the financial year 2010. This decision also approves the closure of the Agency’s accounts.

Noting that the Court of Auditors stated that it has obtained reasonable assurances that the annual accounts of the Joint Undertaking for the financial year 2010 are reliable and that the underlying transactions are legal and regular, Parliament adopted a resolution containing a series of recommendations that need to be taken into account when the discharge is granted, in addition to the general recommendations that appear in the draft resolution on performance, financial management and control of EU agencies.

These recommendations may be summarised as follows:

- **Budget and Financial Management**: Parliament notes the low execution rate on Infrastructure payment appropriations, i.e. 15.39%, related to the late autonomy of the Joint Undertaking. It notes that all the 2010 operational payments to beneficiaries were made during the last six weeks of 2010. It urges the Joint Undertaking, moreover, to inform the discharge authority about the measures adopted and implemented to redress the situation and enable a greater execution rate of its budget both in terms of commitments and payments;
- **Internal Control Systems**: Parliament calls on the Joint Undertaking and in particular its Accounting Officer to formalise and validate the underlying business processes as required by its financial rules. They note that the Joint Undertaking has an adequate level of IT governance and practice for its size and mission but stress that formalisation of policies and procedures in strategic IT planning cycle, etc is lagging behind. They call on the Joint Undertaking to remedy the situation and provide the discharge authority with an up-to-date report on the matter;
- **Internal Audit**: Members take note that the Commission and the Joint Undertaking have taken action to ensure that the respective operational roles of the Commission's Internal Audit Service and the Joint Undertaking's internal auditing function are clearly defined;
- **Call for Proposals and Project Management**: Members note that the evaluation of the Call for Proposal 2010 was carried out by 32 independent experts and a chairperson, and that two independent observers monitored that the evaluation procedure was carried out in a fair, impartial and confidential manner. They call on the Joint Undertaking to inform the discharge authority on the verification mechanisms that it implements to ensure the full independence of experts and observers and therefore to mitigate the risks of conflicts of interests during the evaluation of tenders;
- **Lack of host State agreement**: Members reiterate that the Joint Undertaking should rapidly conclude a host agreement with Belgium concerning office accommodation, privileges and immunities and other support to be provided by Belgium to it.

Horizontal observations on the Joint Undertakings: Members underline that seven Joint Undertakings have so far been established by the European Commission under Article 187 of the Treaty on the Functioning of the European Union and that the total Union contribution deemed necessary for the Joint Undertakings for their period of existence amounts to **EUR 11.5 billion** (for the financial year 2010 alone, the overall Union contribution amounted to EUR 505 million). They note that six Joint Undertakings (IMI, ARTEMIS, ENIAC, CLEAN SKY, FCH and ITER-F4E) are in the research area under the Commission's DGs RTD and INFSO and one is charged with developing the new air traffic management system (SESAR) in the transport domain whose activities are supervised by DG MOVE.

In this context, Parliament calls on the Commission to provide the discharge authority annually with consolidated information on the total annual funding per Joint Undertaking made from the general budget of the Union in order to ensure transparency and clarity on the use of the Union's funds and restore trust among the European taxpayers. It recalls that Joint Undertakings are public-private partnerships and that as a consequence public and private interests are intertwined. Members consider that the **likelihood of conflicts of interest should not be dismissed but addressed properly**. They call therefore on the Joint Undertakings to inform the discharge authority on the verification mechanisms which exist in their respective structures to enable a proper management and prevention of conflicts of interest.

Parliament notes, with the notable exception of the Joint Undertaking for ITER and the Development of Fusion Energy, that Joint Undertakings are relatively small structures and geographically-concentrated and that **they should pool their resources where possible**.

Lastly, the Court of Auditors is invited to provide, within a reasonable deadline, a special report to Parliament, on the added value of the establishment of the Joint Undertakings.