Basic information

2012/2220(DEC) DEC - Discharge procedure	Procedure completed
2011 discharge: Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking) **Subject** 8.70.03.07 Previous discharges	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	GERBRANDY Gerben-Jan (ALDE)	29/02/2012
	Shadow rapporteur RÜBIG Paul (PPE) AYALA SENDER Inés (S&D) STAES Bart (Verts/ALE) BRADBOURN Philip (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
25/07/2012	Non-legislative basic document published	COM(2012)0436	Summary

13/09/2012	Committee referral announced in Parliament		
19/03/2013	Vote in committee		
21/03/2013	Committee report tabled for plenary	A7-0084/2013	Summary
16/04/2013	Debate in Parliament		
17/04/2013	Decision by Parliament	T7-0168/2013	Summary
17/04/2013	Results of vote in Parliament		
17/04/2013	End of procedure in Parliament		
16/11/2013	Final act published in Official Journal		

Technical information

Procedure reference	2012/2220(DEC)
Procedure type	DEC - Discharge procedure
Stage reached in procedure	Procedure completed
Committee dossier	CONT/7/10583

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE497.951	29/01/2013	
Amendments tabled in committee		PE506.002	27/02/2013	
Committee report tabled for plenary, single reading		A7-0084/2013	21/03/2013	Summary
Text adopted by Parliament, single reading		T7-0168/2013	17/04/2013	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	05755/2013	01/02/2013	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2012)0436	25/07/2012	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	N7-0043/2013 OJ C 006 10.01.2013, p. 0056	13/11/2012	Summary

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

Final act	
Decision 2013/0620 OJ L 308 16.11.2013, p. 0351	Summary

2011 discharge: Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking)

2012/2220(DEC) - 13/11/2012 - 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 2011, 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 2011** 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 2011 are, in all material respects, **partially legal and regular and gives a qualified opinion**. An ex-post audit strategy was adopted by the Governing Board in January 2011 and is a key control for assessing the legality and regularity of the underlying transactions. Only eight of twelve ex-post audits were completed as of September 2012 covering EUR 4.8 million (27% of all cost claims received by the FCH Joint Undertaking in 2011). Six of the audits did not present material errors but the other two detected significant errors, the larger of which (EUR 764 000) has been corrected in the following year.

The report confirms that the FCH Joint Undertaking's budget for 2011 amounted to EUR 117.2 million in commitment appropriations and 113.1 million in payment appropriations. Staff totalled 20 at the end of 2011.

Court's comments:

- implementation of the budget: the Court notes that the budgetary procedure outlined in the FCH Joint Undertaking's financial rules was not followed; the derogation granted by the Commission to enter cancelled appropriations in the estimates of revenue and expenses for the following three years was misinterpreted. The Joint Undertaking chose to use payment appropriations amounting to EUR 3.3 million (representing payment appropriations carried over from 2010 to 2011) even though EUR 6.3 million in payment appropriations authorised for the current financial year were still available. As a consequence of the FCH Joint Undertaking's interpretation of the budgetary procedure, the budgetary outturn of the year is incorrect. Furthermore, the budgetary outturn account for 2010 does not reflect the EUR 3.3 million in payment appropriations carried over from 2010 to 2011. Unused global commitments from 2010 amounting to EUR 10.4 million and with a final date of implementation at 31 December 2011, were not decommitted by the end of 2011 but were decommited in January 2012;
- annual assessment of the level of the in-kind contribution: the Court states that the method for evaluating the level of the in-kind contribution has been finalised and was jointly assessed by the Internal Audit Service (IAS) and the Internal Audit Capability (IAC) in April 2012. The aggregated level of in-kind contributions validated by the Authorising Officer as at 8 February 2012 (the cut-off date used for the preparation of the 2011 Provisional Accounts) was EUR 347.6 million. The assessment report concluded that this amount should be reduced by EU 93 000 (or 0.3%);
- treasury: at the end of December 2011 the balance on the FCH Joint Undertaking's bank account was EUR 9.2 million. Between the months of August 2011 and December 2011 the FCH JU's cash balance ranged between approximately EUR 30 million and EUR 60 million. The Joint Undertaking is expected to implement all the measures necessary to minimise the cash balances held on account to the levels that are required.

Joint Undertaking's replies:

- **Qualified opinion**: the FCH JU states that it has established a control strategy of a multiannual nature which combines ex-ante and ex-post controls and takes into consideration cost-efficiency aspects. Ex-post audits are a key component of the overall internal control system and represent one of the main elements underpinning the Executive Director's statement of assurance. To address properly its control and assurance needs, the FCH JU launched the first ex-post audits immediately after the first cost claims were received and validated by the JU in 2011. Without questioning the Court's statements, FCH JU notes that considering the effectiveness of the JU's internal controls to detect errors, the high ex-post audit coverage, the corrections implemented by the JU on 98% of the errors detected and the low weight of interim payments in respect of total payments, the **amount at risk** (i.e. potential error undetected in the validated cost claims) is relatively limited in respect of total payments made and total operational expenditure incurred in 2011;
- as regards de-commitments, the FCH JU acknowledges that the de-commitments should have been done by 31 December 2011 and that the omission was corrected in January 2012. A tighter budget monitoring and application of year end procedure should avoid recurrence of a similar omission;
- on the treasury, the FCH JU is implementing all measures to optimise its cash flows within the limits of the financing agreements.

Lastly, the Court of Auditors' report contains a summary of the **FCH Joint Undertaking's activities in 2011**. The main tasks may be described as follows:

- revision of the Multi Annual Implementation Plan (MAIP) adopted by the Governing Board;
- drafting of the RTD priorities and 2011 call topics;
- drafting of the RTD priorities and 2012 call topics;
- evaluation of the 2011 call for proposals in September 2011 with preparation of a list of projects for which negotiations are to be entered into;
- development of the international cooperation with key partners (USA, Japan and Korea);
- cooperation with the European Regions (via HyER) and cooperation with the Joint Research Centre (JRC) at project and programme level;
- stakeholders General Assembly held on 22-23 November 2011 together with the first Programme Review day with close to 400 participants and other communication activities;
- move to new premises (together with the 4 other JUs mid- January 2011);
- first interim evaluation of the FCH JU and first ex posts audits launched.

2011 discharge: Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking)

2012/2220(DEC) - 01/02/2013

Having examined the revenue and expenditure accounts for the financial year 2011 and the balance sheet at 31 December 2011 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 2011, 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 2011.

The observations in the Court of Auditors' report in relation to the financial year 2011 call for some comments by the Council, which may be summarised as follows:

- the Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2011 and the results of its operations and its 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, with the exception of the matter described below;
- however, it **regrets the Court's qualified opinion on the legality and regularity of the transactions underlying the accounts**, due to the significant errors detected in the ex-post audits carried out for the first time, on the basis of a risk-based and not representative sample selected by external auditors. The Council urges the Joint Undertaking to take the necessary corrective action to **recover the amounts unduly paid**;
- furthermore, the Council calls on the Joint Undertaking to pay due attention to the proper implementation of commitment and payment appropriations in the course of the budgetary year, in line with the budgetary principle of annuality, to **correctly reflect appropriations carried over in the budgetary outturn**, to timely decommit unused appropriations, and to limit the cash balances held on account to the levels that are required;
- lastly, the Council recalls its recommendation to the Joint Undertaking to complete its Financial Rules in order to ensure that the operational roles of the Commission's internal auditor and the Joint Undertaking's internal audit function are clearly defined.

2011 discharge: Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking)

2012/2220(DEC) - 21/03/2013 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control adopted the report by Gerben-Jan GERBRANDY (ADLE, NL) on discharge to be granted to the Executive Director of the Fuel Cells and Hydrogen Joint Undertaking in respect of the implementation of the Undertaking's budget for the financial year 2011.

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 2011 are reliable but has **delivered a qualified opinion on the legality and the regularity of the transactions underlying the Undertaking's accounts**,

Members approve the closure of its accounts. However, they make a number 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:

- **Financing, budget and financial management**: Members recall that the maximum contribution for the period of 10 years from the Union to the Joint Undertaking is EUR 470 million to be paid from the budget of the Seventh Research Framework Programme. They also note that the 2011 Joint Undertaking's final budget included commitment and payment appropriations amounting to EUR 117 million and EUR 60 million respectively.
- **Implementation rate of appropriations and carryovers**: Members welcome the utilisation rates for the available commitment and payment appropriations which were 99.8% and 87.9% respectively. They note with concern that the budgetary procedure outlined in the Joint Undertaking's financial rules was not followed.
- **Qualified opinion of the Court of Auditors**: Members are concerned that the Joint Undertaking's annual accounts received a qualified opinion from the Court of Auditors on the legality and the regularity of the transactions underlying those accounts on the grounds that errors were detected in some ex-post audits.

Members made a series of observations as regards the Joint Undertaking's control systems, the annual assessment of the level of the in-kind contributionas, treasury management as well as other management matters.

Lastly, Members invite the Court to provide, within a reasonable deadline, a special report to Parliament on common issues due to the nature of the joint undertakings in order to ensure **their added value and efficient execution of Union research, technological development and demonstration programmes**. They note, furthermore, that the report should include an assessment of the **effectiveness of the joint undertakings' establishment and structure**.

2011 discharge: Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking)

2012/2220(DEC) - 17/04/2013 - Text adopted by Parliament, single reading

The European Parliament adopted a decision on discharge to be granted to the Executive Director of the Joint Undertaking for the implementation of the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2011. The vote on the decision to grant discharge covers the closure of the accounts (in accordance with Annex VI, Article 5(1) of the European Parliament's Rules of Procedure).

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 2011 are reliable but that it had delivered **a qualified opinion on the legality and the regularity of the transactions underlying the Undertaking's accounts,** Parliament approved the closure of the accounts. It, however, adopted 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.

- **Financing, budget and financial management:** Parliament recalls that the maximum contribution for the period of 10 years from the Union to the Joint Undertaking is EUR 470 million to be paid from the budget of the Seventh Research Framework Programme. It also notes that the 2011 Joint Undertaking's final budget included commitment and payment appropriations amounting to EUR 117 million and EUR 60 million respectively.
- **Implementation rate of appropriations and carryovers:** Parliament welcomes the utilisation rates for the available commitment and payment appropriations which were 99.8% and 87.9% respectively. It notes with concern that the budgetary procedure outlined in the Joint Undertaking' s financial rules was not followed.
- **Treasury management:** Parliament highlights the fact that at the end of December 2011, the balance on the Joint Undertaking's bank account was EUR 9 200 000 and between the months of August 2011 and December 2011, the Joint Undertaking's cash balance ranged between approximately EUR 30 million and EUR 60 million. It urges the Joint Undertaking to implement, together with the Commission, all the necessary measures to minimise the cash balances held on account to the levels that are required within the limits provided in the financing agreements with the Commission.

- **Qualified opinion of the Court of Auditors:** Parliament is concerned that the Joint Undertaking's annual accounts received a qualified opinion from the Court of Auditors on the legality and the regularity of the transactions underlying those accounts on the grounds that errors were detected in some *ex-post* audits.

Parliament also makes a series of observations as regards the Joint Undertaking's control systems, on the assessment of the level of the in-kind contributions, as well as other management matters.

Lastly, Parliament invites the Court of Auditors to provide, within a reasonable deadline, a special report to Parliament on common issues which occur due to the nature of the joint undertakings in order to ensure their **added value and efficient execution of Union research, technological development and demonstration programmes.** It further notes that the same report should include **an assessment of the effectiveness of the joint undertakings' establishment and structure**.

2011 discharge: Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking)

2012/2220(DEC) - 17/04/2013 - Final act

PURPOSE: to grant discharge to the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2011.

NON-LEGISLATIVE ACT: Decision 2013/620/EU of the European Parliament on discharge in respect of the implementation of the budget of the Fuel Cells and Hydrogen Joint Undertaking for the financial year 2011.

CONTENT: with the present decision, and in accordance with Article 319 of the Treaty on the Functioning of the European Union (TFEU), the European Parliament grants discharge to the Executive Director of the Fuel Cells and Hydrogen Joint Undertaking in respect of its budget for the financial year 2011.

This decision is in line with the European Parliament's resolution adopted on 17 April 2013 and comprises a series of observations that form an integral part of the discharge decision (please refer to the summary of the opinion of 17 April 2013).

A parallel decision, 2013/621/EU, adopted on the same day, approves the closure of the Undertaking's accounts for the 2011 financial year.

2011 discharge: Fuel Cells and Hydrogen Joint Undertaking (FCH Joint Undertaking)

2012/2220(DEC) - 25/07/2012 - Non-legislative basic document

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2011, as part of the 2011 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 2011 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 2011, 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 2011 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.

The complete version of the Joint Undertaking's final accounts may be found at the following address:

http://www.fch-ju.eu/page/documents

or consult the following document:

http://www.europarl.europa.eu/document/activities/cont/201210/20121004ATT52945/20121004ATT52945EN.pdf