

REPORT**on the annual accounts of the SESAR Joint Undertaking for the financial year ended 31 December 2008, together with the replies of the Joint Undertaking**

(2009/C 310/02)

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
INTRODUCTION	1-5	10
STATEMENT OF ASSURANCE	6-15	10
COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT	16-20	11
Non-respect of the budgetary principle of annuality	16-17	11
Implementation of the budget	18-20	11
OTHER MATTERS	21-31	11
Internal control systems	21-25	11
Recognition of assets	26-27	12
Financial Regulation of the Joint Undertaking	28	12
Late payment of membership contributions	29	12
Annual Activity Report	30-31	12
Table		13
Replies of the Joint Undertaking		15

INTRODUCTION

1. The SESAR Joint Undertaking was established in February 2007 ⁽¹⁾ in order to manage the activities of the SESAR (Single European Sky Air Traffic Management Research) project. The seat of the Joint Undertaking is in Brussels.

2. The SESAR project aims to modernise air traffic management (ATM) in Europe and is divided into three phases:

(a) 'Definition phase' started in 2005 and led by the European Organisation for Safety of Air Navigation (Eurocontrol), with co-financing from the Community budget through the Trans European Network — Transport programme. The outcome is the European ATM Master Plan, which defines the content, the development and deployment plans of the next generation of ATM systems;

(b) 'Development phase' (2008-2013) managed by the SESAR Joint Undertaking (see also the *Table*) and leading to the production of new technological systems, components and operational procedures as defined in the European ATM Master Plan;

(c) 'Deployment phase' (2014-2020) to be led by industry and stakeholders, for the large-scale production and implementation of the new air traffic management infrastructure.

3. The Joint Undertaking is designed as a public-private partnership. The founding members are the European Community represented by the European Commission, and Eurocontrol represented by its Agency. Following a call for expressions of interest, 15 public and private enterprises from the air navigation industry are candidate members of the Joint Undertaking. These include air navigation service providers, ground and aerospace manufacturing industry, aircraft manufacturers, airport authorities and airborne equipment manufacturers.

4. The budget for the development phase of the SESAR project is 2,1 billion euro, to be provided in equal parts by the Community, by Eurocontrol and by the participating public and private partners. The Community contribution is funded from the Seventh Framework Programme for Research and Technological Development and the Trans-European Networks — Transport programme. Around 90 % of the

funding from Eurocontrol and the other stakeholders will take the form of in-kind contributions.

5. The SESAR JU started to work autonomously on 10 August 2007.

STATEMENT OF ASSURANCE

6. Pursuant to the provisions of Article 248 of the Treaty the Court has audited the annual accounts ⁽²⁾ of the SESAR Joint Undertaking, which comprise the 'financial statements' ⁽³⁾ and the 'reports on implementation of the budget' ⁽⁴⁾ for the financial year ended 31 December 2008 and the legality and regularity of the transactions underlying those accounts.

7. This Statement of Assurance is addressed to the European Parliament and the Council in accordance with Article 185(2) of Council Regulation (EC, Euratom) No 1605/2002 ⁽⁵⁾.

The Director's responsibility

8. As authorising officer, the Director implements the revenue and expenditure of the budget in accordance with the financial rules of the Joint Undertaking ⁽⁶⁾ under his own responsibility and within the limits of the authorised appropriations ⁽⁷⁾. The Director is responsible for putting in place the organisational structure and the internal management and control systems and procedures relevant for drawing up final accounts that are free from material misstatement, whether due to fraud or error, and for ensuring that the transactions underlying those accounts are legal and regular.

The Court's responsibility

9. The Court's responsibility is to provide, on the basis of its audit, a statement of assurance as to the reliability of the annual accounts of the Joint Undertaking and the legality and regularity of the transactions underlying them.

⁽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 of 16 December 2008 (OJ L 352, 31.12.2008, p. 12).

⁽²⁾ These accounts are accompanied by a report on the budgetary and financial management during the year which gives inter alia an account of the rate of implementation of the appropriations with summary information on the transfers of appropriations among the various budget items.

⁽³⁾ The financial statements include the balance sheet and the economic outturn account, the cash-flow table, the statement of changes in capital and the annex to the financial statements which includes the description of the significant accounting policies and other explanatory information.

⁽⁴⁾ The budget implementation reports comprise the budget outturn account and its annex.

⁽⁵⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁶⁾ SESAR Financial Regulation adopted by the Administrative Board on 3 July 2007.

⁽⁷⁾ Article 33 of Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 (OJ L 357, 31.12.2002, p. 72).

10. The Court conducted its audit in accordance with the IFAC and ISSAI⁽¹⁾ International Auditing Standards and Codes of Ethics. Those standards require that the Court complies with ethical requirements and plans and performs the audit to obtain reasonable assurance about whether the accounts are free from material misstatement and whether the underlying transactions are legal and regular.

11. The Court's audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and about the legality and the regularity of the transactions underlying them. The procedures selected depend on its audit judgement, including the assessment of the risks of material misstatement of the accounts or of illegal or irregular transactions, whether due to fraud or error. In making those risk assessments internal control relevant to the entity's preparation and presentation of accounts is considered in order to design audit procedures that are appropriate in the circumstances. The Court's audit also includes evaluating the appropriateness of accounting policies used and, the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the accounts.

12. 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

13. In the Court's opinion, the SESAR Joint Undertaking's annual accounts present fairly, in all material respects, its financial position as of 31 December 2008 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation.

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

14. In the Court's opinion, the transactions underlying the annual accounts of the SESAR Joint Undertaking for the financial year ended 31 December 2008 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

Non-respect of the budgetary principle of annuality

16. The framework Financial Regulation states that the appropriations entered in the budget are authorised for one

financial year running from 1 January to 31 December. The Statutes of the Joint Undertaking confirm that the financial year corresponds to the calendar year.

17. However, Article 5 of the Financial Regulation of the Joint Undertaking states that the first financial reporting period starts when the Joint Undertaking begins autonomous operations in 2007 and ends on 31 December 2008. The Administrative Board adopted the final budget covering the period August 2007 to December 2008 in April 2008. This decision did not respect the principle of annuality laid down in the framework Financial Regulation and the Statutes of the Joint Undertaking.

Implementation of the budget

18. The final budget adopted by the Administrative Board in April 2008 included commitment appropriations of 1 463 million euro and payment appropriations of 38 million euro. As few project activities had started by the end of 2008, the budget proved to be highly unrealistic. This is illustrated by the utilisation rates for commitment and payment appropriations, of 1 % and 17 % respectively.

19. While the utilisation rate for payment appropriations was very low, revenue for the year amounted to 124,2 million euro and deposits in bank accounts at the end of the year totalled 116 million euro. The budgetary principle of equilibrium was not respected.

20. According to the Financial Regulation of the Joint Undertaking, the staff establishment plan should have been adopted by the Administrative Board together with the budget. However, for the period 2007 to 2008, this was not done.

OTHER MATTERS

Internal control systems

21. The Joint Undertaking is in a start-up phase and had not completely implemented its internal controls and management information systems by the end of 2008. The underlying business processes had not been formalised nor validated by the Accounting Officer as required by the Financial Regulation of the Joint Undertaking.

22. The Joint Undertaking does not have yet a financial system integrating the general and budgetary accounting. A complete financial information system is only planned to be implemented at the end of 2009.

⁽¹⁾ International Federation of Accountants (IFAC) and International Standards of Supreme Audit Institutions (ISSAI).

23. The contracts and procurement unit has not yet developed adequate internal control systems. The Joint Undertaking has not yet developed a disaster recovery plan nor a data protection policy.

24. According to its Financial Regulation, the Joint Undertaking should have an internal audit service which must comply with relevant international standards. However, this important element of the internal control system was not put in place until January 2009.

25. The Court's testing of a sample of 36 transactions identified several cases where the internal controls had not operated correctly. For example, in six cases, the Joint Undertaking made budget commitments only after it had already entered into legal obligations. In addition, staff insurance contracts were signed in the absence of the required procurement procedure. In these cases, the budget commitments were also signed after entering into the legal commitment, and the contracts were authorised by an official without the necessary powers.

Recognition of assets

26. The Joint Undertaking will own all the tangible and intangible assets which it creates or which are transferred to it for the development phase of the SESAR project in accordance with specific agreements with its members ⁽¹⁾.

27. However, the Joint Undertaking has not yet developed an accounting policy in respect of assets which may result from the development phase of the project. There is no management information system in place to allow the allocation of costs to specific work packages or to identify the funding source of operational costs. This impedes the proper valuation of assets. Although this does not affect the 2008 accounts, as there has been limited operational activity, it will have significant impact from 2009 onwards.

Financial Regulation of the Joint Undertaking

28. The Financial Regulation of the Joint Undertaking, adopted by the Administrative Board in July 2007, should be

in line with the framework Financial Regulation for Community bodies. In particular, the provisions related to the implementation of the budget and presentation of the accounts, to procurement procedures and to the internal audit function need to be completed. Moreover, the Joint Undertaking has not adopted implementing rules for its Financial Regulation.

Late payment of membership contributions

29. According to the Statutes, the founding members should pay a minimum initial contribution of 10 million euro within 1 year of the establishment of the Joint Undertaking. Eurocontrol paid its initial contribution on 21 August 2008, whereas the Joint Undertaking was established on 3 March 2007. The Commission had already paid the Community contribution on 1 August 2007.

Annual Activity Report

30. According to Articles 7 and 16 of the Statutes of the Joint Undertaking, and Article 40 of the framework Financial Regulation for Community bodies, the Executive Director is required to draw up an annual activity report. The report should show the progress of the SESAR project, in particular with regard to the timetable, costs and performance. The report should contain relevant financial and management information, indicating the results of the operations of the Joint Undertaking by reference to the objectives set, the risks associated with the operations, the use made of the resources provided and the efficiency and effectiveness of the internal control system. By no later than 15 June following the end of the financial year, the management board should send to the budgetary authority and the Court of Auditors an analysis and assessment of the Authorising Officer's annual report.

31. The Court received the annual activity report in May 2009. Although the report provides financial and operational information, it does not meet all the requirements of the applicable regulations. The explanation of the progress of the project does not include a detailed evaluation of the results with respect to the objectives and timetable set. The report does not include an assessment of the efficiency and effectiveness of the internal control system as required by the framework Financial Regulation.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 22 October 2009.

For the Court of Auditors
Vitor Manuel da SILVA CALDEIRA
President

⁽¹⁾ Article 18 of the Statutes.

Table

SESAR Joint Undertaking (Brussels)

Areas of Community competence deriving from the Treaty	Competences of the Joint Undertaking as defined in Council Regulation (EC) No 219/2007 of 27 February 2007 as amended by Council Regulation (EC) No 1361/2008		Governance	Resources made available to the Joint Undertaking in 2007-2008 (first year of the Joint Undertaking)	Main products and services supplied in 2007-2008
<p>Common transport policy</p> <p>The Council may, acting by a qualified majority, decide whether, to what extent and by what procedure appropriate provisions may be laid down for sea and air transport.'</p> <p>(Article 80 of the Treaty)</p> <p>Research and technological development</p> <p>'The Community may set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes.'</p> <p>(Article 171 of the Treaty)</p>	<p>Objectives</p> <ul style="list-style-type: none"> — To ensure the modernisation of the European air traffic management system by coordinating and concentrating all relevant research and development efforts in the Community, — to execute the ATM Master Plan. 	<p>Tasks</p> <ul style="list-style-type: none"> — Manage the research, development and validation activities of the SESAR Project by combining public and private sector funding provided by its members and using external technical resources and in particular by using Eurocontrol's experience and expertise. <p>In particular:</p> <ul style="list-style-type: none"> — organise and coordinate the activities of the development phase of the SESAR project, in accordance with the ATM Master Plan, resulting from the definition phase of the project managed by Eurocontrol, by combining and managing under a single structure public and private sector funding, ensure the necessary funding for the activities of the development phase of the SESAR project in accordance with the ATM Master Plan, — ensure the involvement of the stakeholders of the air traffic management sector in Europe, in particular: air navigation service providers, airspace users, professional staff associations, airports, and manufacturing industry; as well as the relevant scientific institutions or the relevant scientific community, — organise the technical work of research and development, validation and study, to be carried out under its authority while avoiding fragmentation of such activities, 	<p>1. Administrative Board</p> <p><i>Composition</i></p> <ul style="list-style-type: none"> (a) a representative from each of the members of the Joint Undertaking; (b) a representative of the military; (c) a representative of civil users of airspace; (d) an air navigation service providers' representative, designated by their representative organisation at European level; (e) an equipment manufacturers' representative, designated by their representative organisation at European level; (f) an airports' representative; (g) a representative from the bodies representing staff in the air traffic management sector, designated by their representative organisation at European level; (h) a representative of the relevant scientific institutions or the relevant scientific community, designated by their representative organisation at European level. <p>The Administrative Board shall be chaired by the representative of the Community.</p>	<p>Final budget for 2007-2008</p> <p>1 560,21 million euro Community contribution 10,3 %.</p> <p>Staff numbers at 31 December 2008</p> <p>Posts in the staff establishment plan: 23</p> <p>Post occupied: 14</p> <p>Other posts (auxiliary contracts, seconded national experts, local staff): 0</p> <p>Total staff number: 14</p> <p>Staff seconded from the Joint Undertaking members as part of their in-kind contribution: 8</p> <p><i>assigned to the following duties:</i></p> <ul style="list-style-type: none"> — Operational tasks: 9 — Administrative and support tasks: 12 — Mixed tasks: 1 	<ul style="list-style-type: none"> — Establishment of the SESAR Joint Undertaking structure including staff recruitment, procedures preparation, policies and processes definition. Re-design of the Joint Undertaking structure in order to align it with the new JTIs' legal model. — Preparation, negotiation, discussion and launch of the membership process involving 15 candidate members for the realisation of around 300 projects framed in 16 Work Packages. — Preparation and initial establishment of the Work Programme Management structure. — Establishment of the framework for international cooperation. — Launch of operational activities (Industrial Support contract, AIRE initiative). — Launch of communication activities. — Number of procurement procedures for different administrative, technical and operational activities: 16

Areas of Community competence deriving from the Treaty	Competences of the Joint Undertaking as defined in Council Regulation (EC) No 219/2007 of 27 February 2007 as amended by Council Regulation (EC) No 1361/2008	Governance	Resources made available to the Joint Undertaking in 2007-2008 (first year of the Joint Undertaking)	Main products and services supplied in 2007-2008	
		<p>— ensure the supervision of activities related to the development of common products duly identified in the ATM Master Plan and if necessary, to organise specific invitations to tender.</p>	<p><i>Main tasks</i> (see Council Regulation (EC) No 219/2007)</p> <p>(a) adopt the ATM Master Plan endorsed by the Council as referred to in Article 1(2) of the SESAR Regulation and approve any proposal to modify it;</p> <p>(b) give guidelines and take the decisions necessary for the implementation of the development phase of the SESAR project and exercise overall control over its implementation;</p> <p>(c) approve the Joint Undertaking's work programme and annual work programmes as well as the annual budget, including the staff establishment plan.</p> <p>2. Executive Director</p> <p>Appointed by the Administrative Board on a proposal from the Commission.</p> <p>3. External audit</p> <p>European Court of Auditors.</p> <p>4. Discharge Authority</p> <p>European Parliament upon a recommendation from the Council.</p>		

Source: Information submitted by the Joint Undertaking.

REPLIES OF THE JOINT UNDERTAKING

Paragraph 16

The measure adopted by the Administrative Board under Article 5.2 of the SESAR Joint Undertaking (SJU) Financial Regulations took into consideration the starting up of the activities and the limited expenditure during the first months of the life of the SJU.

Paragraph 18

The SJU is responsible for the development phase of the SESAR Programme which is expected to last until 2016. The programme is multiannual and, in this respect, will be characterised during its life by an expected imbalance between revenues and expenditure. Furthermore, the resources available at the end of 2008 in the SJU are needed for the launch of approximately 200 projects in late 2009 and early 2010.

The need to change the SJU basic act and the alignment of the SJU legal framework to that of a full Community body impacted on the capacity of the SJU to launch the programme as initially expected by the end of 2008.

Paragraphs 20-24

2007-2008 has been a start-up period for the SJU, and resources were concentrated on the initial set-up of the organisation and especially on the finalisation of the agreements with the candidates for SJU membership. Furthermore, the changes introduced by the new Council Regulation modifying the basic act of the SJU will allow the SJU during 2009 to set up progressively an adequate system for the management of the organisation in the future.

With regard to the financial system, the SJU is in the 'EC waiting list' for the implementation of ABAC and SAP, while internally is working on a management system for the operational aspects of the programme. Nevertheless, it is not expected that the SJU will have an integrated financial system before mid-2010, requiring the SJU to manage its resources with additional controls.

Paragraphs 25-26

The SJU will seek to develop an accounting policy for the recognition of the assets resulting from the programme by mid-2010. Furthermore, provisions concerning cost reporting, financial statements, etc are detailed in the Multilateral Framework Agreement governing the programme.

Paragraph 27

The SJU Financial Rules, which are based on the Commission's Framework Regulation (EC, Euratom) No 2343/2002, were adopted by the SJU Administrative Board on 28 July 2009.

Paragraph 28

The reasons for the deferred payment of the initial Eurocontrol contribution were related to the adoption of the new Statutes of the SJU. While the intention of Eurocontrol to pay the contribution was clearly established, the SJU had to assess the detailed impact of the change of its basic act on the status of such a payment, before making the payment request.

Paragraphs 29-30

The SJU takes note of the comments of the Court. As already mentioned, 2007-2008 was the first year of the Joint Undertaking operations and was mostly dedicated to the set-up and organisation of the Public-Private Partnership. As a consequence, the annual activity report concentrates on the achievements in the set-up of the structure and the initial financial aspects. From 2009, the report will address the progress achieved towards the programme objectives.
