



## **DECISION OF THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING**

### **Adopting a methodology for reporting the in kind contributions in operational activities**

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to the Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking<sup>1</sup>,

Having regard to Article 4 of the Council Regulation, in particular paragraphs 2, 4 and 5,

Having regard to Article 16(3) of the Statutes of the Council Regulation,

WHEREAS:

- 1) In accordance with Article 4.2 of Council Regulation 561/2014, “the private members of the ECSEL Joint Undertaking shall make or arrange for their constituent entities and affiliated entities to make contributions to the ECSEL Joint Undertaking. The amount of at least EUR 1.657.500.000 over the period referred to in Article 1 is envisaged”.
- 2) Article 4.4 states that “the Members of the ECSEL Joint Undertaking other than the Union shall report by 31 January each year to the Governing Board on the value of the contributions referred to in paragraphs 1 and 2 made in each of the previous financial years”.
- 3) Article 4.5 states that “for the purpose of valuing the contributions referred to in point (c) of Article 16(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The

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<sup>1</sup> OJ L 169/152 of 7.06.2014

valuation method may be verified by the ECSEL Joint Undertaking, should there be any uncertainty arising from the certification. In case of remaining uncertainties, it may be audited by the ECSEL Joint Undertaking.”

- 4) Private members are AENEAS, ARTEMISIA and EPOSS associations. They shall report on the contributions of their constituent or affiliated entities.
- 5) According to Article 4§6, “the Commission may engage in remedial actions and possibly terminate, proportionally reduce or suspend the Union’s financial contribution to the ECSEL Joint Undertaking or trigger the winding-up procedure referred to in Article 26(2) of the Statutes if members other than the Union, including their constituent entities and affiliated entities, do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraphs 1 and 2 of this Article.”
- 6) A methodology is needed to ensure a transparent and consistent implementation of the provisions. The Governing Board should adopt this methodology.

HAS DECIDED AS FOLLOWS:

*Article 1*

The methodology for reporting the in kind contributions in operational activities, as attached in Annex, is hereby approved.

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, on 28 June 2016

For the Governing Board

*(signed)*  
Andrea Cuomo  
Chairperson of the Governing Board

## Annex: Methodology for reporting the in-kind contributions in operational activities

### 1. INTRODUCTION

ECSEL Joint Undertaking (ECSEL JU) is a public-private partnership.

The members of the ECSEL Joint Undertaking are the Union, represented by the European Commission, the ECSEL Participating States and the industry associations AENEAS, ARTEMISIA and EPoSS.

Council Regulation 561/2014<sup>2</sup> setting up the ECSEL JU provides for the following contributions from its members:

1. The **Union** financial contribution to the ECSEL Joint Undertaking, to cover administrative costs and operational costs shall be up to EUR 1 184 874 000.
2. The **ECSEL Participating States** (EPS) shall make a financial contribution to the operational costs of the ECSEL JU of at least EUR 1 170 000 000.
3. The **private members** of the ECSEL JU shall make or arrange their constituent entities and affiliated entities to make contribution to the ECSEL JU of at least EUR 1 657 500 000. For operational costs, it shall consist of in kind contributions by the private members or their constituent entities and affiliated entities consisting of the costs incurred by them in implementing indirect actions less the contributions by the ECSEL Joint Undertaking, the ECSEL Participating States and any other Union contribution to those costs.

This document aims at defining a methodology for reporting the in-kind contribution in operational activities.

Although not required by the legal basis, this methodology is proposed to the Governing Board for endorsement to ensure an agreement and legal stability.

#### This document provides:

- an overview of the legal background,
- a definition of some key concepts to ensure common understanding,
- a description of the reporting of the value of in-kind contributions,
- an explanation of the control mechanisms governing the value of in-kind contributions, and
- a description of the accounting treatment applicable to in kind contributions.

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<sup>2</sup> Council Regulation (EU) No 561/2014 of 6 May 2014.

## 2. LEGAL BACKGROUND

### 2.1. Article 4 of Council Regulation 561/2014 establishing ECSEL Joint Undertaking

#### *Contributions of members other than the Union*

1. *The ECSEL Participating States shall make a financial contribution to the operational costs of the ECSEL Joint Undertaking that is commensurate with the Union's financial contribution. The amount of at least EUR 1 170 000 000 over the period referred to in Article 1 is envisaged.*
2. *The private members of the ECSEL Joint Undertaking shall make or arrange for their constituent entities and affiliated entities to make contributions to the ECSEL Joint Undertaking. The amount of at least EUR 1 657 500 000 over the period referred to in Article 1 is envisaged.*
3. *The contributions referred to in paragraphs 1 and 2 of this Article shall consist of contributions to the ECSEL Joint Undertaking as set out in Article 16(2), point (b) of Article 16(3) and point (c) of Article 16(3) of the Statutes.*
4. *The Members of the ECSEL Joint Undertaking other than the Union shall report by 31 January each year to the Governing Board on the value of the contributions referred to in paragraphs 1 and 2 made in each of the previous financial years.*
5. *For the purpose of valuing the contributions referred to in point (c) of Article 16(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the ECSEL Joint Undertaking, should there be any uncertainty arising from the certification. In case of remaining uncertainties, it may be audited by the ECSEL Joint Undertaking.*
6. *The Commission may engage in remedial actions and possibly terminate, proportionally reduce or suspend the Union's financial contribution to the ECSEL Joint Undertaking or trigger the winding-up procedure referred to in Article 26(2) of the Statutes if members other than the Union, including their constituent entities and affiliated entities, do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraphs 1 and 2 of this Article.*

## 2.2. Article 16 of the Statutes

### **16 - Sources of financing**

1. *The ECSEL Joint Undertaking shall be jointly funded by its members through financial contributions paid in instalments and in kind contributions consisting of the costs incurred by the private members or their constituent entities and affiliated entities in implementing indirect actions that are not reimbursed by the ECSEL Joint Undertaking.*
2. *The administrative costs of the ECSEL Joint Undertaking shall be covered by means of the financial contributions referred to in:*
  - a. *Article 3(1) of this Regulation for the Union's financial contribution up to EUR 15 255 000;*
  - b. *(b) Article 4(2) of this Regulation for the contribution by the private members up to EUR 19 710 000 or 1 % of the sum of the total cost of all projects, whichever figure is higher, but not exceeding EUR 48 000 000; and*
  - c. *(c) Article 19(2) of this Regulation for the completion of the actions launched under Regulations (EC) No 72/2008 and (EC) No 74/2008.*

*If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the ECSEL Joint Undertaking.*

3. *The operational costs of the ECSEL Joint Undertaking shall be covered by means of:*
  - a. *the Union's financial contribution;*
  - b. *financial contributions from ECSEL Participating States;*
  - c. *in kind contributions by the private members or their constituent entities and affiliated entities consisting of the costs incurred by them in implementing indirect actions less the contributions by the ECSEL Joint Undertaking, the ECSEL Participating States and any other Union contribution to those costs.*
4. *The resources of the ECSEL Joint Undertaking entered in its budget shall be composed of the following contributions:*
  - a. *members' financial contributions to the administrative costs;*
  - b. *members' financial contributions to the operational costs, including those from the ECSEL Participating States which entrust the ECSEL Joint Undertaking in accordance with Article 17(1);*
  - c. *any revenue generated by the ECSEL Joint Undertaking;*
  - d. *any other financial contributions, resources and revenues.*

*Any interest yielded by the contributions paid to the ECSEL Joint Undertaking shall be considered to be its revenue.*

5. *Should any member of the ECSEL Joint Undertaking be in default of its commitments concerning its agreed financial contribution, the Executive Director shall put this in writing and shall set a reasonable period within which such default shall be remedied. If the situation is not remedied within that period, the Executive Director shall convene a meeting of the Governing Board to decide whether the defaulting*

*member's membership is to be revoked or whether if any other measures are to be taken until its obligations have been met.*

6. *The resources and activities of the ECSEL Joint Undertaking shall be intended for the achievement of the objectives set out in Article 2 of this Regulation.*
7. *The ECSEL Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives set out in Article 2 of this Regulation.*
8. *Except when the ECSEL Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the members of the ECSEL Joint Undertaking.*

### **3. DEFINITION AND VALUATION METHOD OF IN KIND CONTRIBUTIONS IN OPERATIONAL ACTIVITIES (IKOP OR IKC)**

#### **3.1. Definitions**

Article 16(3) of the Statutes provides for a definition of the in kind contribution of the private members:

- “in kind contributions by the private members or their constituent entities and affiliated entities consisting of the costs incurred by them in implementing indirect actions less the contributions by the ECSEL Joint Undertaking, the ECSEL Participating States and any other Union contribution to those costs”.

To be considered as in kind contribution, these costs must be incurred by beneficiaries in ECSEL projects that are constituent entities and affiliated entities of the private members, namely the private associations AENEAS, ARTEMISIA and EPoSS.

#### **3.2. Valuation**

Article 4.4 of the Regulation provides that in kind contribution should be valued “*in accordance with the usual accounting practices of the entities concerned, to the applicable accounting standards or the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards*”.

Costs will be calculated on the basis of the eligible (direct and indirect) cost model of Horizon 2020: it will allow the use of the existing grant management cycle to plan, assess, certify, verify and audit the amount of in kind contribution.

Eligible costs are direct and indirect costs incurred during the projects according to the ECSEL JU Grant Agreement.

The estimated contribution provided annually and put in the accounts as liabilities will include beneficiaries who are constituent entities or affiliated entities of one of the industry associations.

## **4. MONITORING AND REPORTING OF THE VALUE OF THE IN KIND CONTRIBUTION**

The members of the Joint Undertaking other than the EU have the legal obligation to reach the amounts specified in Article.4.

The certification and validation of the in kind contribution should be reconciled to the accounting rules of the ECSEL JU and its reporting obligations against the European Council and the European Parliament<sup>3</sup>.

### **4.1 The key stages for the reporting of the value of the in kind contribution**

#### **a) Reporting**

The Regulation requires certification of the costs to be accounted as in kind contribution. Reporting shall be assured by the private members on a yearly basis while audit certification of the eligible (direct and indirect) cost model of Horizon 2020 is mainly done with the final balance sheets of the projects or with the results of audits performed in the course of the project.

Considering that projects funded by ECSEL JU last, in average, three or four years, it is only at the end of the projects that the in kind contribution will be certified and that both JU and EPS contribution will be known.

Two stages are defined to monitor the value of the in kind contribution, as follows:

#### **b) Value of Anticipated in kind contribution**

Every year, the PAB funding decisions (so called “Decisions on the selection of project proposals retained for funding and the allocation of funding”) provide a detailed breakdown by project as follows:

- total costs,
- total JU funding and
- total national funding.

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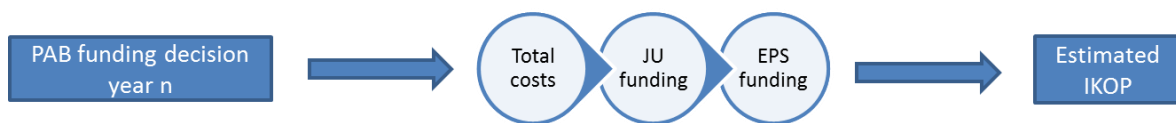
<sup>3</sup> In addition, the Commission has to present each year, together with the draft budget, a report to the budgetary authority on the in-kind contributions received from other partners in PPPs, including the JUs.

This obligation is based on article 38(4)(b) of the Financial Regulation: *Where the Commission entrusts budget implementation to public-private partnerships (PPPs), it shall attach to the draft budget a working document presenting the amount of financial contributions made from the budget, the amount of financial contributions and the value of contributions in kind made by the other partners for each PPP.*

The JU Grant Agreements (JUGA) are later signed on the basis of the figures put in the PAB funding decisions.

To calculate the anticipated in kind contribution on an annual basis, a *pro rata temporis* rule will be applied to cover a given year. Anticipated in kind contribution will be presented by Call.

Data for constituent entities and affiliated entities of the associations will be presented, according to the information provided by the private members. Every year, the in kind contribution will be updated by Call.



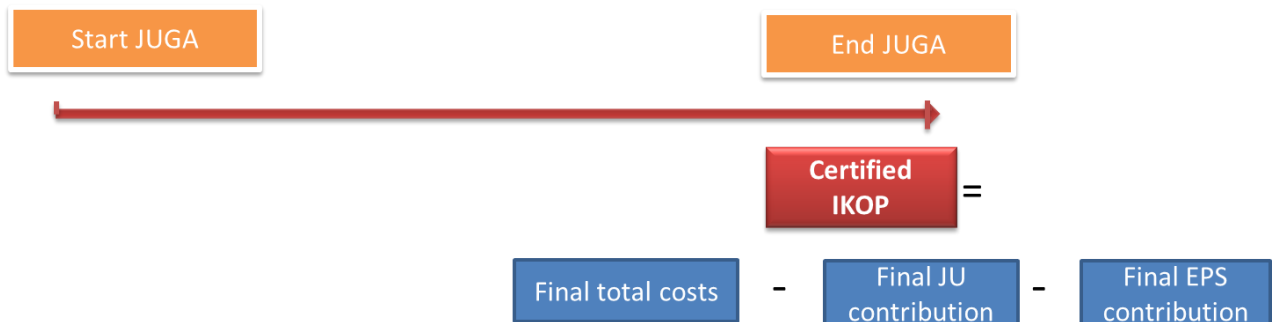
**By Call:**

Year n+1 = estimated in kind contribution *pro rata temporis*  
 Year n+2 = estimated in kind contribution (year n+1) + (year n+2)  
 etc.

**c) Value of Certified in kind contribution**

The JU Office will be able to calculate the value of certified in kind contribution on the basis of the certification as well as the cost validation and possible audits.

In most cases, this will be done at the end of the projects, when project beneficiaries submit a Certificate on Financial Statements (CFS), and when the final financial contributions of both the JU and the EPS are known.





The cut-off date used for each financial year for the preparation of the report will be the same as for the preparation of the annual accounts (31 December). This report will be submitted to the Governing Board by 31 January of the following year (N+1).

#### **d) Accounting treatment of the in kind contribution**

The accounting treatment of the in kind contribution will be ensured as follows:

- The **anticipated in kind contribution** based on the PAB funding decision and presented annually on a *pro rata temporis* basis will appear in the accounts as a liability,

Once **certified and validated** by the JU, the in kind contribution, calculated from the certified operational costs, the final JU contribution and the final EPS contribution, appears as net assets.

#### **e) Collaboration between the Programme Office and the private members**

In order to properly identify the constituencies of the private members, the latter will provide to the JU Office an updated list of their constituent entities and affiliated entities.

Every year, the JU Office will provide a list of project beneficiaries to the private members, presented by Call and by project. The private members will update the information on their constituencies.

### **4.2 Additional information on the in-kind contribution of non-members**

Compliance with the Regulation requires reporting on certified in kind contribution of the private members or their constituent entities and affiliated entities. Non-members are the entities that are not constituent of affiliated entities of the private members.

To ensure a complete view on the in kind contribution, the JU Office will also report the in kind contribution of non-members in the annual activity report. This additional information is useful to measure the impact of the programme.

## **5. CONTROL MECHANISMS ON THE VALUE OF IN-KIND CONTRIBUTIONS**

According to Article 4.4 of the Council Regulation:

*“For the purpose of valuing the contributions referred to in point (c) of Article 16(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be **certified** by an independent external auditor appointed by the entity concerned. The valuation method may be **verified** by the ECSEL Joint Undertaking,*

*should there be any uncertainty arising from the certification. In case of remaining uncertainties, it may be **audited** by the ECSEL Joint Undertaking.”*

Three control mechanisms are explicitly requested in order to provide reasonable assurance on the value of in kind contribution reported by the private members. These are:

- a *certification* of the costs by an independent auditor appointed by the entity concerned, and
- a *verification* of the valuation method by the JU, limited to cases of uncertainties arising from the certification.
- an *audit* of the valuation method, requested in case of remaining uncertainties: this will be addressed through the normal control mechanism on project costs (i.e. the ‘ex-post audits’) of the ECSEL JU. Indeed, article 13 of ECSEL Regulation<sup>4</sup> requests audits on the costs incurred in ‘indirect actions’, which include the in kind contribution based on eligible costs according to H2020 rules.

The table below explains how these three control layers will be implemented in practice.

| What?                | Who?   | How?   |
|----------------------|--|--|
| <b>Certification</b> | <b>Independent external auditor appointed by the beneficiary</b> | The ‘ <b>Certificate on Financial Statements</b> ’ (CFS) will be used as the certificate requested by Article 4.4 of the Council Regulation. The CFS is mandatory when the beneficiary requests a total EU contribution of 325.000€ or more <sup>5</sup> . Certification thus only concerns beneficiaries receiving 325.000€ or more from the Joint Undertaking for a given project. |
| <b>Verification</b>  | <b>ECSEL JU Office</b>   | Verification is necessary only in cases of <i>uncertainties</i> arising from the certificate (e.g. exceptions identified in the CFS; doubts about the independence of the auditor; low quality of the CFS received; no respect of the ‘Terms of Reference’).<br><br>In these cases the Office’s approach (‘desk review’ vs. ‘on the spot’ checks) will be decided                    |

<sup>4</sup> Council Regulation (Article 13): “Ex-post audits of expenditure on indirect actions shall be carried out by the ECSEL Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of the Horizon 2020 indirect actions”

<sup>5</sup> Grant Agreement (Article 20.4): “The final report must include the following.... (ii) a ‘certificate on the financial statements’ (drawn up in accordance with Annex 5) for each beneficiary [and for each linked third party], if it requests a total contribution of EUR 325 000 or more, as reimbursement of actual costs and unit costs calculated on the basis of its usual cost accounting practices...”

|              |                                     |  |
|--------------|-------------------------------------|--|
|              |                                     | on an ad-hoc basis depending on the level of uncertainty and the specific risk resulting from the certificate. |
| <b>Audit</b> | <b>ECSEL JU Office</b> <sup>6</sup> | The ‘ex-post audits’ on project costs, foreseen by Article 13 of the Council Regulation, will apply.           |

## 6. ACCOUNTING TREATMENT

Commission Accounting rule no. 1 dated December 2015 applies to ECSEL JU and lays down the level of consolidation into the EU accounts as well as clarifying the level of control by the EU. In accounting terms, the JU is therefore considered a joint venture and is to use the equity method to account for the contributions from members.

In addition, the Accounting Officer of the European Commission has issued a recommendation on how to present the members’ contributions in the annual accounts<sup>7</sup>. This recommendation includes the validation of the in kind contribution by the Governing Board. The Executive Director, after an in-depth control and assurance process performed by the Programme Office, will present the in kind contribution to the Governing Board for its endorsement. Once this is received, the Executive Director, as Authorising Officer of the JU, will validate all of the expenditures<sup>8</sup>.

The in kind contributions of the private members or their constituent entities and affiliated entities for each financial year will be recognised in the balance sheet of the JU Annual Accounts according to the following criteria:

### 6.1. Net assets: certified Contributions from constituent entities and affiliated entities

Certified and validated in kind contributions: cost claims submitted by private members or their constituent entities and affiliated entities which claim at least 325.000€ contribution from the JU:

- a certificate has been submitted and accepted,
- the final JU contribution is known,
- the EPS contributions is known
- costs have been validated at the cut-off date of 31 December of the financial year.

<sup>6</sup> Following the H2020 Audit Strategy as adopted by the Common Support Centre.

<sup>7</sup> ARES(2010)303380 – 03/06/2010 for the attention of the accounting officers of ARTEMIS, CLEAN SKY, IMI and SESAR

<sup>8</sup> Note DG BUD accounting treatment of contributions in-kind. Ares 2014(3670256).

## 6.2. Liabilities: contributions from all project beneficiaries

Liabilities will include cost incurred by constituent entities and affiliated entities of the industry associations by the cut-off date of 31 December of the financial year whose in kind contribution has not yet been certified, verified and validated.

The estimation (based on a linear *pro-rata temporis* calculation) of the in kind contribution incurred until the cut-off date of 31 December of the financial year by all those constituent entities and affiliated entities of the industry associations for which a cost claim was not due or received by that date.

As from the 2016 accounts, the notes to the ECSEL JU Annual Accounts will include a table as follows:

|           | <b>Liabilities: estimated in kind contributions</b>                |
|-----------|--|
| Call 2014 | Reported in 2016:<br>Reported in 2017:<br>...                      |
| Call 2015 | Reported in 2016:<br>Reported in 2017:<br>Reported in 2018:<br>... |
| total     |  |