Council Regulation (EU) No 558/2014 of 6 May 2014 establishing the Clean Sky 2 Joint Undertaking (Text with EEA relevance)

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 187 and the first paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Whereas:

(1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council[(2)].

(2) Council Decision 2006/971/EC[(3)] identified specific public-private partnerships to be supported, including a public-private partnership in the specific area of the Clean Sky Joint Technology Initiative.

(3) The Communication from the Commission of 3 March 2010 entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth (the 'Europe 2020 Strategy'), endorsed by the European Parliament and the Council, emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union.

(4) Regulation (EU) No 1291/2013 of the European Parliament and of the Council[(4)] established Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) ('Horizon 2020'). Horizon 2020 aims to achieve a greater impact with respect to research and innovation by combining Horizon 2020 and private sector funds in public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate. In accordance with

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Regulation (EU) No 1291/2013, Union involvement in those partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union under Decision No 1982/2006/EC.

(5) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU[(5)], further support should be provided to joint undertakings established under Decision No 1982/2006/EC under the conditions specified in Decision 2013/743/EU.

(6) The Clean Sky Joint Undertaking set up by Council Regulation (EC) No 71/2008[(6)] is achieving its objectives of stimulating new research within the framework of a public-private partnership which enables long-term cooperation to take place among European aeronautical stakeholders. Small and medium-sized enterprises (SMEs) have participated very extensively in Clean Sky, with approximately 40 % of the budget for calls for proposals allocated to them. The interim evaluation of the Clean Sky Joint Undertaking has shown that the Joint Undertaking is successfully stimulating developments towards environmental targets. In addition, it has been highly successful in attracting extensive and wide-ranging participation by all Union key industries and a large number of SMEs. It has led to new collaborations and to the participation of new organisations. Its research area should therefore continue to be supported in order to achieve its objectives as set out in this Regulation.

(7) Continued support for the Clean Sky research programme should also take into account the experience acquired from the operations of the Clean Sky Joint Undertaking, including the results of its interim evaluation and the stakeholders' recommendations, and should be implemented using a structure and rules that are more fit for its purpose in order to enhance efficiency and to ensure simplification. To that effect, the Clean Sky 2 Joint Undertaking should adopt financial rules specific to its needs in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(7)].

(8) The private members of the Clean Sky Joint Undertaking have agreed for the research activities in the area of the Clean Sky Joint Undertaking to be pursued within a structure better adapted to the nature of a public-private partnership. It is appropriate that the private members of the Clean Sky 2 Joint Undertaking accept the Statutes annexed to this Regulation by means of a letter of endorsement.

(9) To achieve its objectives, the Clean Sky 2 Joint Undertaking should provide financial support to participants and members, mainly in the form of grants following open and competitive calls for proposals.

(10) The Clean Sky 2 Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner to its appropriate bodies as well as promoting its activities, including information and dissemination activities to the wider public. The rules of procedure of the bodies of the Clean Sky 2 Joint Undertaking should be made publicly available.

(11) The contributions from the private members should not be limited only to the administrative costs of the Clean Sky 2 Joint Undertaking and to the co-financing

required to carry out research and innovation actions supported by the Clean Sky 2 Joint Undertaking, but should also cover additional activities previously declared and to be undertaken by the private members, as specified in an additional activities plan. In order to get a proper overview of the leverage effect of those additional activities, they should represent contributions to the broader Clean Sky Joint Technology Initiative.

(12) Participation in indirect actions funded by the Clean Sky 2 Joint Undertaking should comply with Regulation (EU) No 1290/2013 of the European Parliament and of the Council[8]. The Clean Sky 2 Joint Undertaking should, moreover, ensure consistent application of those rules based on relevant measures adopted by the Commission.

(13) The Clean Sky 2 Joint Undertaking should also use electronic means managed by the Commission to ensure openness and transparency and to facilitate participation. Therefore, the calls for proposals launched by the Clean Sky 2 Joint Undertaking should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the Clean Sky 2 Joint Undertaking for inclusion in the Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.

(14) The Clean Sky 2 Joint Undertaking should take into account the OECD definitions regarding Technological Readiness Level in the classification of technological research, product development and demonstration activities.

(15) The Union financial contribution should be managed in accordance with the principle of sound financial management and with the rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012[9].

(16) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and disproportionate amounts of documentation and reporting should be avoided. Audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013.

(17) The financial interests of the Union and of the other members of the Clean Sky 2 Joint Undertaking should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.

(18) The Commission's internal auditor should exercise the same powers over the Clean Sky 2 Joint Undertaking as those exercised in respect of the Commission.

(19) In view of the specific nature and the current status of the joint undertakings, and to ensure continuity with the Seventh Framework Programme, the joint undertakings should continue to be subject to a separate discharge. By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, discharge

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for the implementation of the budget of the Clean Sky 2 Joint Undertaking should therefore be given by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the Union financial contribution to the Clean Sky 2 Joint Undertaking but they should be aligned, to the extent possible, to the ones foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.

(20) To implement the Union financial support for large-scale actions phased over several years, it is advisable to provide for the possibility to split multiannual budgetary commitments by the Union and the Clean Sky 2 Joint Undertaking into annual instalments. Commitments binding on the Union and the Clean Sky 2 Joint Undertaking over the long term should make it possible to reduce the uncertainties connected with the completion of such large-scale actions.

(21) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore the Clean Sky 2 Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the Clean Sky 2 Joint Undertaking and underpin smart specialisation efforts.

(22) The Clean Sky Joint Undertaking was set up for a period up to 31 December 2017. The Clean Sky 2 Joint Undertaking should provide continued support to the Clean Sky research programme by implementing the remaining actions initiated under Regulation (EC) No 71/2008 in accordance with that Regulation. The transition from the Clean Sky Joint Undertaking to the Clean Sky 2 Joint Undertaking should be aligned and synchronized with the transition from the Seventh Framework Programme to Horizon 2020 to ensure optimal use of the funding available for research. In the interest of legal certainty and clarity, Regulation (EC) No 71/2008 should therefore be repealed and transitional provisions should be set out.

(23) Given the overall aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals by the Clean Sky 2 Joint Undertaking should take into account the duration of Horizon 2020.

(24) Given the importance of continuous innovation for the competitiveness of the Union's transport sector and the number of joint undertakings in this field, there should be an analysis in due time, notably in view of the interim evaluation of Horizon 2020, regarding the appropriateness of efforts in collaborative research in the field of transport.

(25) Since the objectives of this Regulation, namely the establishment of the Clean Sky 2 Joint Undertaking in order to strengthen industrial research and innovation across the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of avoiding duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on

European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary for that purpose in order to achieve those objectives,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

1 For the implementation of the Joint Technology Initiative in aeronautics, a joint undertaking within the meaning of Article 187 of the Treaty on the Functioning of the European Union ('Clean Sky 2 Joint Undertaking'), is established for a period until 31 December 2024. In order to take into account the duration of Horizon 2020, calls for proposals by the Clean Sky 2 Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases calls for proposals may be launched by 31 December 2021.

2 The Clean Sky 2 Joint Undertaking shall replace and succeed the Clean Sky Joint Undertaking, established by Regulation (EC) No 71/2008.

3 The Clean Sky 2 Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.

4 The Clean Sky 2 Joint Undertaking shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity granted to legal persons under the laws of those States. It may acquire or dispose of movable and immovable property and may be party to legal proceedings.

5 The seat of the Clean Sky 2 Joint Undertaking shall be located in Brussels, Belgium.

6 The Statutes of the Clean Sky 2 Joint Undertaking are set out in Annex I.

Article 2

Objectives

The Clean Sky 2 Joint Undertaking shall have the following objectives:

(a) to contribute to the finalisation of research activities initiated under Regulation (EC) No 71/2008 and to the implementation of Regulation (EU) No 1291/2013, and in particular the Smart, Green and Integrated Transport Challenge under Part III — Societal Challenges of Decision 2013/743/EU;

(b) to contribute to improving the environmental impact of aeronautical technologies, including those relating to small aviation, as well as to developing a strong and globally competitive aeronautical industry and supply chain in Europe.

This can be realised through speeding up the development of cleaner air transport technologies for earliest possible deployment, and in particular the integration, demonstration and validation of technologies capable of: