



# **Fuel Cells and Hydrogen Joint Undertaking (FCH JU)**

## **Guide to Financial Issues for beneficiaries of FCH JU Programme**

Version October 2013

### **Disclaimer**

This guide is aimed at assisting beneficiaries. It is provided for information purposes only and its contents are not intended to replace consultation of any applicable legal sources or the necessary advice of a legal expert, where appropriate. Neither the FCH JU nor any person acting on its behalf can be held responsible for the use made of these guidance notes.

## **Foreword**

The general FCH JU Grant Agreement was adopted by the FCH JU Governing Board on 10 September 2009 (updated in 2010<sup>1</sup>, 2011<sup>2</sup> and 2013) - to be used in research projects funded under the FCH JU Programme.

The purpose of this guide is to help participants to understand and interpret the financial provisions of the FCH JU Grant Agreement that they are signing. To this end, the enclosed text tries to avoid (to the best possible extent) the use of legal references, technical vocabulary and legal jargon, and seeks to provide the reader with practical advice.

The structure of this guide mirrors the financial provisions of the FCH JU GA, by following the same index and structure of that document. Accordingly, it should be used as a tool to clarify the provisions of the FCH JU GA, and should be read in connection with it. Each article in the FCH JU GA with financial implications is explained in this guide, and examples included where appropriate. The intention is not only to explain, but also, by following the same structure, to help the reader to locate where he/she may find the answer to his/her question.

This is the second version of the FCH JU Guide to Financial issues published for the first time in July 2012. It is based on the Commission's document "Guide to financial issues related to FP7 Indirect Actions" and includes adaptations to FCH JU specificities.

In conformity with the principles of the guide, periodic revisions are required in order to clarify points and introduce additional information resulting from experience, new developments and feedback from users.

In particular, the main clarifications and modifications introduced in this first update are due to the adoption of the new FCH JU Model GA and concern the following points:

### **First the FCH JU is obliged to pay beneficiaries more rapidly**

- Art. 6 of the core: Reduction of the time-limit for payment of pre-financing to 30 days from the entry into force of the grant agreement

- Art. II.5: Reduction of the time-limit for payment for interim and final payments to 90 days from the receipt of the reports.

These changes apply as from 1/1/2013 both to future and existing (on-going) grant agreements since they are favourable to the beneficiaries. For on-going grant agreements, these new rules will automatically apply as from 1/1/2013 without the need for formal individual amendments to the grant agreement.

### **Second, the introduction of electronic signature**

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1 FCH JU Grant Agreement was modified on 15 June 2010 in order to align with Lisbon Treaty.  
Art.II.16 was modified on 15 June 2010

2 Art.II.14 was modified in June 2011 but the amendments apply retroactively.

All FCH JU beneficiaries of Grant Agreements signed after 1/1/2013 will sign and transmit electronically-only the financial statements (Forms C), the certificates on financial statements and the certificates on the methodology (Forms D and E), due to the modification of the following articles of the FCH JU GA :

- Art.8 of the core: Addition of the 2nd paragraph indicating how reports and deliverables should be transmitted to the FCH JU.

- Art II.4 - Grant Agreements signed after 1/1/2013 introduce the electronic-only signature and transmission of the Form C and the electronic-only transmission of the certificates on financial statements and certificates on the methodology (forms D and E). Therefore, the submission of paper Forms is abolished.

For Grant Agreements signed before 31/12/2012, the consortia may apply the new electronically transmission and signature system, provided they introduce a request for an amendment via the coordinator and this request is formally approved by the FCH.

This guide is structured as follows:

- Part 1 explains the provisions of the core of the FCH JU Grant Agreement.
- Part 2 provides interpretations of the financial provisions of the General Conditions, i.e. Annex II of the FCH JU GA.

It is important to remember that the only scope of the guide is to provide interpretation on the legal texts (and in particular the FCH JU GA), and that it cannot derogate from them. The guide reflects the interpretation of the FCH JU of the provisions of the FCH JU GA. However, only the provisions of the signed grant agreement are binding.

Finally, this guide should be considered as one more of the guides available to any future beneficiary of the FCH JU Programme, and which can be found at the following web address:

<http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

We would also like to remind participants that all questions concerning FCH JU Programme can be directed to the generic mail-box: [fch-projects@fch.europa.eu](mailto:fch-projects@fch.europa.eu)

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## PART 1: FCH JU GRANT AGREEMENT - CORE

### Article 5 of FCH JU GA – Maximum financial contribution of the FCH JU

#### **Article 5.1 of FCH JU GA – The Financial Contribution of the FCH JU**

The maximum FCH JU contribution which appears in this article cannot be exceeded. Even if the eligible costs of the project happen to be higher than planned, no additional funding is possible. The FCH JU contribution includes:

- a) a pre-financing payment paid at the start of the project (Article 6 of FCH JU GA);
- b) interim payments following each reporting period;
- c) the final payment at the end of the project for the last reporting period plus any adjustment needed.

For the calculation of the final FCH JU contribution, any receipt received by the beneficiary including interest generated by the pre-financing in the account of the coordinator has to be taken into account<sup>3</sup>.

*Example*

**Project A:**

**Maximum FCH JU contribution:** EUR 3,000,000

**Duration:** 3 years/ 2 reporting periods

**Pre-financing:** EUR 1,800,000

**1<sup>st</sup> interim cost claim**

<i>Maximum FCH JU contribution</i>	<i>EUR 3,000,000</i>
<i>Pre-financing paid</i>	<i>EUR 1,800,000</i>
<i>Percentage</i>	<i>60%</i>
<i>Maximum pre-financing + interim payment (1)</i>	<i>EUR 2,400,000</i>
<i>Amount of FCH JU contribution accepted in this cost claim</i>	<i>EUR 1,500,000</i>
<i>Interim payment by FCH JU</i>	<i>EUR 600,000</i>
<i>Total amount paid after this payment (EUR 1,800,000+ EUR 600,000)</i>	<i>EUR 2,400,000</i>

*(1) The pre-financing + interim payments cannot exceed 80 % of the max. FCH JU contribution as provided for in Article 6 of the FCH JU GA.*

**Final cost claim**

<i>Maximum FCH JU contribution</i>	<i>EUR 3,000,000</i>
<i>Amount already paid</i>	<i>EUR 2,400,000</i>
<i>Percentage</i>	<i>80%</i>
<i>Amount of FCH JU contribution accepted in this cost claim</i>	<i>EUR 1,500,000</i>

<sup>3</sup> For information on interest yielded by pre-financing and on receipts see Article II.17 of the GA

<i>Final payment by FCH JU</i>	<i>EUR 600,000</i>
<i>Total amount paid after this payment (EUR 1,800,000+ EUR 600,000 + EUR 600,000)</i>	<i>EUR 3,000,000</i>

The funding rates are set in Art. 5.1 of the FCH JU GA. These are determined based on the upper funding limits by type of activity and beneficiary specified in Art. II.16 of the GA and adapted to take into account the matching reasons.

Indeed, according to Art. 12(3) of the Statutes of the FCH JU, the in-kind contribution from participants shall at least match the contribution of the FCH JU.

**This implies that for matching reasons, the funding rates may be reduced compared to the upper funding limits and may vary from one call to another.**

The table below presents upper funding limits and corresponding hypothetical examples of FCH JU funding rates:

		<i>Upper funding limits</i>	<i>FCH funding rates<sup>4</sup></i>
<i>Non-profit public bodies, secondary and higher education establishment, research organisations and SMEs</i>	<i>RTD</i>	<i>75%</i>	<i>60%</i>
	<i>Demo</i>	<i>50%</i>	<i>40%</i>
	<i>Other costs</i>	<i>100%</i>	<i>80%</i>
	<i>CSA</i>	<i>100%</i>	<i>80%</i>
<i>Large Industry</i>	<i>RTD</i>	<i>50%</i>	<i>40%</i>
	<i>Demo</i>	<i>50%</i>	<i>40%</i>
	<i>Other costs</i>	<i>100%</i>	<i>80%</i>
	<i>CSA</i>	<i>100%</i>	<i>80%</i>

*RTD: Research and technological development activities*

*Demo: Demonstration activities*

*CSA: Coordination and support actions*

## **Article 5.2 of FCH JU GA – Financial content of Annex I to FCH JU GA**

As the breakdown table included in Annex I (Description of Work) to the FCH JU GA is an estimate, the transfer of budget between activities and beneficiaries is allowed without the need for an amendment of the FCH JU GA. However, a condition for this is that the work be carried out as foreseen in Annex I to FCH JU GA. The coordinator should verify this on a case-by-case basis, but in practical terms, coordinators (and beneficiaries via the coordinator) are encouraged, where a transfer with a potential impact on the "Description of Work" arises (most cases), to check this (i.e. by e-mail) with the Project Officer in the FCH JU. This e-mail (or other written) communication would avoid disagreement on the interpretation of this condition later.

**An amendment to the GA will be necessary in all cases if the budget transfer arises from a significant change in Annex I. Significant change refers to a change that affects the technical work as foreseen in Annex I to FCH JU GA including the subcontracting of a task that was initially meant to be carried out by a beneficiary. In case of doubt, it is recommended to**

<sup>4</sup> Those funding rates apply to direct costs only.

**consult the responsible project officer within the FCH JU.**

Furthermore, if a transfer is made, the reimbursement rates of the new activities and beneficiaries concerned as described in Article II.16 of FCH JU GA will apply, as well as any other limits set in the FCH JU GA (i.e. transfer between beneficiaries or activities with different funding rates).

*Examples<sup>5</sup>:*

- *"A" (large industry) transfers within its own budget EUR 100,000 from Management activities (funded at e.g. 80%) to RTD activities (funded at e.g. 40%). If the costs remain the same (EUR 100,000), the funding will be adjusted to 40% (as the funding rate for RTD activities is 40% and not 80%).*
- *"B" (an SME – Small/Medium-sized company) transfers EUR 100,000 from RTD activities to "A" (large industry). As the reimbursement rates for an SME in RTD activities may reach e.g. 60% of the total costs, B was entitled to a funding of EUR 60,000. However, if the costs remain the same (EUR 100,000), "A" will be able to claim only EUR 40,000 FCH JU funding, as the funding rate for company "A" (a non-SME) in RTD activities is 40%.*
- *"B" (SME) transfers EUR 100,000 from RTD activities to the management activities of "A" (large industry); Whereas "B" was entitled to EUR 60,000 as FCH JU funding, "A" will be entitled with the same amount of eligible costs (EUR 100,000) to EUR 80,000 as FCH JU funding. This is because management activities are reimbursed at e.g.80%.*

However, irrespective of the different transfer combinations, the maximum FCH JU financial contribution as mentioned in Article 5 cannot be increased.

**Specific cases where part of the grant is reimbursed as a lump sum (for explanation on the concept of lump sum see Article II.18 of FCH JU GA).**

*Use of lump sums is feasible for beneficiaries from international cooperation partner countries<sup>6</sup> (ICPC). However, it has never been implemented under FCH JU Programme. Therefore, this provision is theoretical at this stage.*

If the FCH JU foresees the use of lump sums for one or more beneficiaries the second indent of Article 5.2 should appear in the core GA.

Beneficiaries from international cooperation partner countries (ICPC) could opt for a FCH JU contribution in the form of lump sums or for a FCH JU contribution based on reimbursement of eligible costs. **As an exception**, in GA with ICPC participants, Consortia can **transfer budget** from the part of the grant reimbursed on the basis of costs to the part reimbursed as a lump sum (and *vice versa*). In other words, the Consortium can transfer funds from beneficiaries reimbursed

<sup>5</sup> The given examples apply hypothetical percentages and concern only direct costs. Funding rates are indicated in Art.5 and may vary from one call to another.

<sup>6</sup> Article 2.12 of Regulation (EC) N° 1906/2006 defines these as "a third country which the Commission classifies as low-income, lower-middle-income or upper-middle-income country and which is identified as such in the work programmes".

on the basis of eligible costs to those reimbursed on the basis of lump-sums and *vice versa*.

The reason is that in these cases the number of researchers per year used by these ICPC has to be justified. In these cases also, transfers between beneficiaries using lump sums is possible too, with the same conditions as those mentioned above for transfers of funds. In any of the cases, the maximum total FCH JU contribution granted for the project applies.

Participants from international cooperation partner countries may also opt for lump sums when they participate in a FCH JU GA not specifically aimed at fostering this international cooperation.

*Explanations on FCH JU contributions in the form of lump sums are provided in this guide under Article II.16 of the FCH JU GA.*

### **Article 5.3 of FCH JU GA – Bank account**

It is recommended that the bank account included in the FCH JU GA (i.e. the bank account of the Coordinator) be used exclusively for handling the project funds; the reason being that, in order to fulfill its obligations, the coordinator must at any moment be able to identify dates and figures related to any payment received or made under the FCH JU GA (Article II.2.3). This requirement is necessary for the identification of the interest. Beyond that, the requirement is also important for audit and control purposes (i.e. to enable a reconciliation of accounting records with the actual use of funds).

In any case, if an existing account/sub-account is used, the accounting methods of the coordinator must make it possible to comply with the above mentioned requirements.

### **Article 6 of FCH JU GA –Pre-financing**

#### **Concept and calculation of the pre-financing (+ Article II.6 of FCH JU GA)**

Pre-financing payment (advance payment) will be received by the coordinator at the beginning of the project and in any case within 30 days of the entry into force of the grant agreement (unless a special clause stipulates otherwise) for all pre-financing to be transferred by the FCH JU as from 1/1/2013.

The coordinator will distribute it to the other beneficiaries:

- Once the minimum number of beneficiaries as required by the call for proposals have signed and returned Form A (accession form), **and**
- Only to those beneficiaries who have signed and returned Form A.

Like any other payment, the coordinator will distribute the pre-financing to the other beneficiaries in conformity with the FCH JU GA and the decisions taken by the Consortium, and has to be able to determine at any time the amount paid to each beneficiary (and inform the FCH JU of this when required). The purpose of this pre-financing is to make it possible for the beneficiaries to have a positive cash-flow during (most of) the project. It will be defined during the negotiations.

In general, the amount of the pre-financing could be between 30-60% **of the total FCH JU contribution**, unless the specific circumstances of the project require otherwise (e.g. very heavy initial capital investment, etc.). Whatever the amount, the limits mentioned in the next paragraph also apply here.

*Examples:*

*A project with a heavy initial investment by the Consortium (reason to increase)*

*A project with few activities or financial expenditure for the first period (reason to decrease the pre-financing).*

In any case, the pre-financing has the following two limits:

- a 20% retention of the total FCH JU contribution will always be kept by the FCH JU until the date of the last payment;
- the ex-ante verification of the financial capacity<sup>7</sup> of the beneficiary will be carried out (see also sections devoted to Art.II.2 point 4 and to Art.II.20 in this guide).

## **Article 7 of FCH JU GA – Special clauses**

**Special clause 11 please refer to Article II.14 of FCH JU GA.**

For the other clauses please refer to the FCH JU model Grant Agreement available at the following link:

<http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

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<sup>7</sup> Information for beneficiaries who participate also in FP7: Many beneficiaries may not be subject to financial capacity verification under the FP7 rules due to the coverage of the Guarantee fund for FP7. However, as the FCH JU is not part of the Guarantee fund, the financial verification is done for most participants (except public bodies and international organisations).

## **PART 2: FCH JU GRANT AGREEMENT – ANNEX II – GENERAL CONDITIONS**

### **Article II.1 of FCH JU GA – Definitions (No financial issues)**

Explanation on the definition of research organisation, industry, SMEs and public bodies under Article II.16.

## **PART "A": IMPLEMENTATION OF THE PROJECT**

### **SECTION 1: GENERAL PRINCIPLES**

#### **Article II.2 of FCH JU GA – Organisation of the consortium and role of coordinator**

There is always only one project coordinator who is responsible for the tasks defined in Article II.2.3 of FCH JU GA and who represents the Consortium vis-à-vis the FCH JU.

##### **1. Can these coordination tasks be performed by other beneficiaries/third parties?**

The tasks attributed by the FCH JU GA to the coordinator in the above-mentioned Article **cannot be subcontracted or outsourced to a third party**. The role of coordinator of the FCH JU GA is defined by these tasks listed in Article II.2.3 of FCH JU GA. Furthermore, these tasks may not be carried out by other beneficiaries.

##### **2. Can part of the management tasks be performed by other beneficiaries?**

Coordination tasks are part of the "management tasks"; however, "management tasks" include tasks beyond those of coordination of the project, and those tasks can be performed by beneficiaries other than the coordinator. In this sense, some management tasks will be performed by other beneficiaries and they will be reimbursed as indicated in Art.5 of the FCH JU GA provided they comply with the other eligibility criteria as stipulated in Article II.14 of FCH JU GA (e.g. participation to project management meetings, obtaining of the certificates on financial statements). In certain cases (i.e. big projects) there could be in a project a beneficiary carrying out only management activities. For more information on "management tasks" see Article II.16.3 of FCH JU GA.

##### **3. Can there be a scientific coordinator other than the Coordinator?**

The coordinator in the GA is defined **only** by the tasks mentioned in Article II.2.3. Tasks related to the coordination of the project that are not listed in the above Article (e.g. scientific coordination of the project) could be carried out by another beneficiary. It is possible that this beneficiary in charge of the task of scientific coordination, may be internally (i.e. within the Consortium) identified as a "scientific coordinator". However, in the relationship with the

FCH JU the "scientific coordinator" is only another beneficiary of the FCH JU GA. It will not be considered as the project coordinator. The tasks of scientific coordination performed by this beneficiary can be reimbursed, if they comply with the criteria for eligibility established in Article II.14, but only as "research and technological development activities" (with the corresponding reimbursement rate. By their nature (scientific work) they cannot be reimbursed as "management costs"

*Example<sup>8</sup>:*

*Beneficiary "B" is leader of Work Package I in Project X, and in charge of the publication of a competitive call related to the selection of a new beneficiary within Work Package I, He is also in charge of the technical coordination of the other 5 Work Packages of the project. He also has to provide a certificate on the financial statements.*

*Reimbursement rates:*

- *For its RTD work: 40% (60% if falling under the cases detailed in Article II.16.1. of FCH JU GA)*
- *For its management work related to the competitive call within Work Package I: 80%*
- *For its scientific coordination of the project: 40 or 60% (as this is part of the RTD activities)*
- *For its management costs related to the certificate on financial statements: 80%*

#### **4. Can a financially weak legal entity be coordinator of a project?**

The FCH JU will systematically analyse the financial viability of coordinators and beneficiaries except those that are public bodies, or whose participation is specifically guaranteed for the project by a Member State or Associated country.

If as a result of this analysis, an entity is considered to have an 'insufficient' financial capacity, normally it will not be allowed to participate in the project as a coordinator. It will be allowed only in exceptional cases, when its role as coordinator is vital for the sake of the project. Then one or a mix of protection measures may apply.

If an entity scores as 'weak', its participation as a coordinator may be subject to protection measures such as: financial guarantee to be provided from bank or mother company or affiliated entity, trust account, payment directly to beneficiaries (special clause 8 of the FCH JU GA).

Financial verification of a beneficiary other than coordinator, who requests a pre-financing will also be assessed and protection measures may apply depending on the results.

**Cost of guarantees requested by the FCH JU for beneficiaries or coordinators is an eligible cost.**

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<sup>8</sup> The given example applies hypothetical percentages and concern only direct costs. Funding rates are indicated in Art.5 of the FCH JU GA and may vary from one call to another.

## **Article II.3 of FCH JU GA – Specific performance obligations of each beneficiary (No financial issues)**

## **SECTION 2: REPORTING AND PAYMENTS**

### **Article II.4 of FCH JU GA - Reports and deliverables**

#### **Articles II.4.1, II.4.2, II.4.3 and II.4.5 -> II.4.8 of FCH JU GA**

Please refer to the dedicated "Guidance notes on project reporting", available at:

<http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

The guidance notes on project reporting define the content of these reports and propose templates.

Grant Agreements signed after 1/1/2013 introduce the electronic-only signature and transmission of the financial statements (Form C) and the electronic-only transmission of the certificates on financial statements and certificates on the methodology (forms D and E). Therefore, the submission of paper forms is abolished.

For Grant Agreements signed before 31/12/2012, the consortia may apply the new electronic-only transmission and signature system, provided that an amendment is signed. To this purpose, beneficiaries may introduce a request for an amendment via the coordinator. For more information on these changes please refer to the Guidance note "FP7 Quick Information letter on the electronic-only transmission and signature of Form C and electronic-only transmission of certificates (Forms D and E)", published on the Participant Portal at: [http://ec.europa.eu/research/participants/portal/ShowDoc/Participant+Portal/portal\\_content/docs/submission/quick\\_info\\_e\\_only\\_submission\\_of\\_forms\\_c.pdf](http://ec.europa.eu/research/participants/portal/ShowDoc/Participant+Portal/portal_content/docs/submission/quick_info_e_only_submission_of_forms_c.pdf).

### **Article II.4.4 of FCH JU GA - Certificate on the financial statements and certificate on the methodology**

These certificates must be submitted following the templates provided in Annex VI (Forms D & E) of the GA. Those models are compulsory. They were updated for the last time in June 2012. The amended Forms D and E should be submitted by beneficiaries signing the grant agreement after this date. Also, they have to be submitted by those who have already signed grant agreements, if they charge average personnel costs or flat-rate financing for SME owners or natural persons who do not receive a salary. The same rule applies for third parties identified in the grant agreement under Article 7.

Other beneficiaries and third parties which have already signed grant agreements may also use these updated Forms.

If the auditor preparing the certificates feels, that one or several of the questions do not correspond to the reality of the accounting system that he/she is describing, he/she should explain this divergence in detail in the form and record this as an exception. In this case, the

FCH JU will consider the explanation based upon the facts provided by the auditor, and decide on the consequences.

The FCH JU GA specifies that these certificates must be prepared and certified by an auditor qualified in accordance with national legislation implementing Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts or any Community legislation replacing this Directive. Beneficiaries established in third countries shall comply with national regulations in the same field.

Auditors qualified in the EU could provide certificates for beneficiaries established in third countries, but in that case the auditor must be familiar with the relevant national regulations (national accounting rules) of the beneficiaries' country and comply with them when preparing the certificate.

### ***The case of public officers providing the certification***

The FCH JU GA foresees the possibility for public bodies, secondary and higher education establishments and research organisations to opt for a competent public officer to provide these certificates, provided the relevant national authority has established the legal capacity of that competent public officer to audit that entity, and that the independence of the officer can be ensured. This does not mean that the above mentioned beneficiaries have to submit automatically and systematically to the FCH JU proof that a national authority has established the legal capacity of a given competent public officer. Neither the FCH JU will systematically ask for such proof unless there are reasonable doubts that the capacity of the competent public officer has not been established correctly.

The FCH JU's approval or accreditation is not required and a beneficiary who does not comply with the obligation would be in breach of contract.

Where a public body opts for a competent public officer, the auditor's independence is usually defined as independence from the beneficiary "in fact and/or in appearance". A preliminary requirement is that the competent public officer is not involved in any way in drawing up the financial statements (Form C) and that she/he is not hierarchically dependent from the officer responsible for the financial statements.

## **1. Submission of certificate on the financial statements**

Certificates on the Financial Statements (CFS) should be provided only once the thresholds<sup>9</sup> mentioned in the FCH JU GA have been reached.

CFS are not required from participants incurring costs in relation to the project who are not receiving FCH JU contributions (i.e. only 'in-kind' contribution). However, those participants may still be subject to an FCH JU audit in order for the JU to confirm the amount of the in-kind contribution in the context of the requirements established by the Statutes of the FCH

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<sup>9</sup> Thresholds in FCH JU projects are different than the one in FP7 projects: CFS is required if the Commission financial contribution  $\geq$  EUR 375 000, when cumulated with all previous payments for which a certificate on the financial statements has not been submitted.

JU<sup>10</sup>.

A CFS is mandatory for any claims for final payment submitted by beneficiaries requesting a financial contribution from FCH JU of more than EUR 50,000 and, for claims for interim payments where the amount of requested FCH JU financial contribution is equal to or above EUR 325,000, when cumulated with all previous payments for which a certificate on the financial statements has not yet been submitted. Once a CFS is submitted (where the threshold of EUR 325,000 for interim payments is reached) the count is reset again at Zero for subsequent FCH JU contributions.

Please keep in mind that although the threshold is established on the basis of the FCH JU contribution, the CFS must certify the total eligible costs incurred, i.e. partner contributions in addition to the requested FCH contribution.

*Example 1: A beneficiary in a project with 5 periods:*

<i>Claim No</i>	<i>Eligible Costs</i>	<i>FCH JU Contribution</i>	<i>Cumulative amount for which a CFS has not been submitted</i>	<i>CFS required</i>	
1	EUR 380,000	EUR 190,000	EUR 190,000	NO	
2	EUR 410,000	EUR 205,000	EUR 395,000	YES	(1)
3	EUR 500,000	EUR 250,000	EUR 250,000	NO	
4	EUR 350,000	EUR 175,000	EUR 425,000	YES	(2)
5	EUR 600,000	EUR 300,000	EUR 300,000	YES	(3)

(1) *Cumulative FCH JU contribution = EUR 190,000 + EUR 205,000 = EUR 395,000. A CFS has to be provided because cumulative interim requested FCH contribution amounts  $\geq$  EUR 325,000. After the submission of CFS, the calculation of the cumulative amount re-starts from 0 for period 3.*

*It is important to remember that the CFS has to cover the eligible costs incurred for the whole period and not just the FCH JU contribution.*

(2) *Cumulative FCH JU contribution = EUR 250,000 + EUR 175,000 = EUR 425,000. A CFS has to be provided because the cumulative amount  $\geq$  EUR 325,000. After the submission of the CFS, the calculation of the cumulative amount re-starts from 0 for period 5.*

*The CFS covers the eligible costs for the periods 3 and 4 (EUR 500,000 + EUR 350,000 = EUR 850,000).*

(3) *FCH JU contribution for period 5 (final payment) = EUR 300,000. It is  $>$  EUR 50,000, therefore CFS for the last reporting period has to be provided.*

<sup>10</sup> Article 12 of the Statutes annexed to the Council Regulation (EC) N° 521/2008 of 30 May 2008, amended by Council regulation (EU) N° 1183/2011 of 14 November 2011.

*Example 2:*

<i>Claim No.</i>	<i>Eligible Costs</i>	<i>FCH JU contribution</i>	<i>Cumulative amount for which a CFS has not been submitted</i>	<i>CFS required</i>	
1	EUR 400,000	EUR 200,000	EUR 200,000	NO	
2	EUR 200,000	EUR 100,000	EUR 300,000	NO	
3	EUR 300,000	EUR 150,000	EUR 450,000	YES	(1)
4	EUR 100,000	EUR 40,000	EUR 40,000	NO	(2)

(1) A certificate has to be submitted (since EUR 200,000 + EUR 100,000 + EUR 150,000 = EUR 450,000).

(2) FCH JU contribution for period 4 (final payment) = EUR 40,000. It is < EUR 50,000, therefore CFS for the last reporting period is not needed.

*Example 3:*

<i>Claim No.</i>	<i>Eligible Costs</i>	<i>FCH JU contribution</i>	<i>Cumulative amount for which a CFS has not been submitted</i>	<i>CFS required</i>	<i>CFS submitted</i>	<i>FCH JU contribution covered by CFS</i>	<i>Counter Re-set Amount:</i>
1	EUR 380,000	EUR 190,000	EUR 190,000	NO	NO		
2	EUR 410,000	EUR 205,000	EUR 395,000	YES	YES (1)	190,000	205,000
3	EUR 150,000	EUR 75,000	EUR 280,000	NO	NO		280,000
4	EUR 350,000	EUR 175,000	EUR 455,000	YES	YES (2)	280,000	175,000
5	EUR 300,000	EUR 150,000	EUR 325,000	YES	YES (3)	325,000	0

(1) Covering only costs incurred in reporting period 1

(2) Covering only costs incurred in reporting period 2 & 3

(3) Covering only costs incurred in reporting period 4 & 5

**What if a CFS is submitted by a beneficiary although it was not compulsory?**

As mentioned above, it is not compulsory for a beneficiary to submit CFS before the total FCH JU contribution requested reaches EUR 325,000 or EUR 50,000 (respectively for interim and final payments). However, if the beneficiary submits a CFS before these thresholds are reached, the counter will be re-set for the amount not covered by the CFS. However, the costs of a CFS submitted on a voluntary basis cannot be charged on the project as eligible costs as long as the cumulative FCH JU contribution claimed does not reach the EUR 325,000 or EUR 50,000 (respectively for interim and final payments) thresholds.

*Example 1:*

*CFS submitted although the EUR 325,000 threshold for interim payments was not reached:*

<i>Claim No.</i>	<i>Eligible Costs</i>	<i>FCH JU contribution</i>	<i>Cumulative amount for which a CFS has not been submitted</i>	<i>CFS required</i>	<i>CFS submitted</i>	<i>FCH JU contribution covered by CFS</i>	<i>Counter Re-set Amount:</i>
1	EUR 380,000	EUR 190,000	EUR 190,000	NO	YES(1)	190,000	0
2	EUR 410,000	EUR 205,000	EUR 205,000	NO	NO		205,000
3	EUR 150,000	EUR 75,000	EUR 280,000	NO	NO		280,000
4	EUR 80,000	EUR 40,000	EUR 320,000	NO	NO		320,000
5	EUR 200,000	EUR 100,000	EUR 420,000	YES	YES(2)	420,000	0

*(1) CFS was not mandatory because FCH JU contribution is < EUR 325,000*

*(2) Covering costs incurred in reporting period 2,3,4 & 5.*

**\*\*\* Specific case of projects having been the object of a FCH JU audit:**

If the FCH JU's auditors (or the external auditors hired by the FCH JU) have already carried out an audit on the costs incurred by a beneficiary in a given period, the FCH JU **shall waive** the obligation for an audit certificate for this period. Once the audit has been concluded, the **beneficiary's counter will be re-set** excluding the audited amount(s). However, The CFS will still be obligatory for the costs for which:

- the subsequent interim claims for FCH JU contribution are equal to or superior to EUR 325,000 and/or
- the final claim for FCH JU contribution, exceeds 50,000 EUR.

*Example 1:*

*Beneficiary requesting FCH JU contribution of EUR 200,000 in period 1 and of EUR 125,000 in period 2. At the time of submission of the second claim the beneficiary reaches the 325,000 threshold of requested FCH JU contribution which makes compulsory the submission of a CFS. However, the costs of the first year (justifying the FCH JU contribution of 200,000) have been audited by the FCH JU. As a consequence:*

*Example 1a*

<i>Claim No.</i>	<i>Eligible Costs</i>	<i>FCH JU contribution</i>	<i>Cumulative amount for which a CFS has not been submitted</i>	<i>CFS required</i>	
1	EUR 400,000	EUR 200,000	EUR 200,000	NO	
<i>FCH JU (ex-post) audit covering EUR 400,000 (including 200,000 of FCH JU contribution)</i>					
2( <i>final</i> )	EUR 250,000	EUR 125,000	EUR 125,000	YES	(1)

(1) The audit restarted the counter from 0 for the second period. However, a certificate has to be submitted because the second reporting period is at the same time the last one and the FCH JU contribution exceeds the threshold of EUR 50,000. It will cover only the costs non-audited by the FCH JU ( EUR 250,000)

*Example 1b*

<i>Claim No.</i>	<i>Eligible Costs</i>	<i>FCH JU contribution</i>	<i>Cumulative amount for which a CFS has not been submitted</i>	<i>CFS required</i>	
1	EUR 400,000	EUR 200,000	EUR 200,000	NO	
<i>FCH JU (ex-post) audit covering EUR 400,000 (including 200,000 of FCH JU contribution)</i>					
2	EUR 250,000	EUR 125,000	EUR 125,000	NO	(1)
3( <i>final</i> )	EUR 200,000	EUR 100,000	EUR 225,000	YES	(2)

(1) The audit restarted the counter from 0 for the second period. The cumulative amount is lower than EUR 325,000 thus a CFS is not required

(2) Final cumulative financial contribution of the FCH JU under the form of reimbursement of costs exceeds EUR 50,000. Therefore, a CFS is required. However, it will cover only the costs non-audited by the FCH JU ( EUR 450,000)

**\*\*\* Specific case of beneficiaries with an approved certificate on the Methodology: Please refer to next section.**

More information about the procedures to submit the certificate on financial statements can be found in the guidance notes for beneficiaries and auditors. This document together with *Frequently Asked Questions - Certificates Issued by External Auditors* can be found at the following address:

<http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

## **2. Submission of a certificate on the Methodology**

The CFS is a certificate that is submitted after the costs are incurred and claimed.

As an additional option, under FP7 as well as the FCH JU Programme, the grant agreement allows that some beneficiaries submit a certificate on the methodology (CoM) that they will use **for the identification of personnel and indirect costs (not for the other costs)**.

Once submitted, this certificate on the methodology will be analyzed by the Commission

services on behalf of the FCH JU.

**If approved, this certificate on the methodology allows the Commission and the FCH JU services to have reasonable assurance on the reliability of the beneficiaries' costing methodology for the preparation of future cost claims with regard to both personnel (either actual or average) and indirect costs (other than flat rates), and the related control systems.**

As a consequence, those beneficiaries are granted certain derogations in the periodicity of submission of CFS (detailed below).

The procedures to introduce a request and to submit the certificate on the methodology are described in the document entitled *Certificates issued by external auditors: guidance notes for beneficiaries and auditors* at the following address:

<http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

The following stages can be identified:

1. Request to use this certificate by the beneficiary.

The submission of a certificate on the methodology is subject to the following conditions:

- The submission of this type of certificate is entirely optional (i.e. not mandatory) for those beneficiaries falling within the criteria set by the Commission. The certificate is foreseen for beneficiaries with multiple participations (the threshold is determined at the sole discretion of the Commission).

During the first stages of the implementation of the 7<sup>th</sup> Framework Programme, transitional eligibility criteria based on historical data (FP6) were applied<sup>11</sup> in order to open as soon as possible this option to those eligible beneficiaries. It was agreed that these transitional eligibility criteria should be revised to introduce additional criteria based on the participation in FP7 Grant Agreements of the beneficiaries. These new criteria permit the FP7 recurrent beneficiaries who are not eligible under the current FP6-based eligibility criteria, such as certain beneficiaries from the new Member States, to be eligible for submission of the Certificate on the Methodology for both personnel and indirect costs.

Accordingly, the Commission:

- to keep the FP6 eligibility criteria : at least 8 participations in FP6 contracts with an EU/Euratom contribution for each contract equal or above EUR 375,000, and
- to add criteria for the beneficiaries who did not meet the above FP6 criteria but would meet

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<sup>11</sup> Beneficiaries who have participated in at least 8 contracts under FP6 with an EU financial contribution for each of them equal or above 375,000 EUR can submit a request for certification of their methodologies for both personnel and indirect costs, as from their first participations under FP7.

- ➔ Either at least 4 participations in FCH JU GA and /or FP7 Grant Agreements signed before the 1st January 2010 with an EU/Euratom/FCH JU contribution for each grant agreement equal or above EUR 375,000;
- ➔ Or, at least 8 participations in FCH JU and/or FP7 Grant Agreements with an EU/Euratom/FCH JU contribution for each grant agreement equal or above EUR 375,000 at any time during the implementation of the FCH JU Programme and/or the FP7.

A beneficiary that has been found guilty of making false declarations or has seriously failed to meet its obligations under this grant agreement or found to have overstated any amount can be excluded from the certification on the methodology. It could also be the case for beneficiaries whose methodology has been subject to repetitive changes.

Beneficiaries, who intend to opt for the certification on the methodology and consider they meet the criteria, may introduce a "request" to the Commission empowered by the FCH JU. This request can be introduced **only** by electronic mail to the following functional mailbox:

*RTD-FP7-Cost-Methodology-Certification@ec.europa.eu*

2. Acceptance or rejection of the request by the Commission services empowered by the FCH JU according to established criteria.

The Commission has 30 calendar days to accept or reject the request. In case, the request cannot be accepted, a motivated decision will be communicated to the beneficiary concerned. The absence of a response within 30 days of receipt of the request cannot be considered as an acceptance. This time limit may be extended in particular if some clarification or additional information is needed.

3. Submission of the certificate on the methodology:

Once the request has been accepted, the certificate must be submitted in the form of a report of factual findings prepared and certified by an external auditor (or competent public officer for public bodies and secondary and higher education establishments and research organisations<sup>12</sup>) in the form foreseen in the FCH JU GA (Annex VI to FCH JU GA, Form E).

The certificate can be submitted at any time during the implementation of FCH JU Programme as well as FP7 and at the earliest on the start date of the first FCH JU GA or GA under FP7 signed by this beneficiary. This certificate can be introduced **only** by electronic mail to the following functional mailbox:

*RTD-FP7-Cost-Methodology-Certification@ec.europa.eu*

4. Acceptance or rejection of the certificate on the methodology by the Commission

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<sup>12</sup> Cf. Article II.4.4 of FCH JU GA.

services empowered by the FCH JU.

The Commission will endeavour to accept or reject the certificate within 60 calendar days. The absence of a response within the 60 days of receipt of the request cannot be considered as an acceptance. This period can be longer if some clarification or additional information is needed.

The consequences of the **acceptance and use of the certificate** on the methodology are as follows:

- The requirement to provide an intermediate CFS for claims of interim payments (even if cumulatively the FCH JU contribution is equal or superior to EUR 325,000) shall be waived from the date of the notification of the acceptance of the certificate by the FCH JU.
- Beneficiaries, if cumulatively their FCH JU contribution exceeds EUR 50,000, will only have to submit a CFS for the final payment. This CFS will cover the eligible costs for the total FCH JU contribution.

This CFS has to cover all the eligible costs including personnel and indirect costs. However, for personnel and indirect costs, the auditors will only have to focus on checking compliance with the certified methodology and systems, omitting individual calculations. A detailed description of the audit procedures to be carried out by the auditors is provided in the guidance notes for audit certifications.

- Once the certificate is accepted, the approved CoM will be valid for all FCH JU and FP7 Grant Agreements signed by the beneficiary after the date of approval. The approved methodology may also be used retroactively for all ongoing FCH JU as well as FP7 Grant Agreements signed by the beneficiary before the date of approval of the CoM. This retroactive effect will be applicable only to projects for which the period of submission of the final reports is not elapsed at the time of the notification of the CoM approval (i.e. time-limit for retroactive effect: end date of the project + 60 days).
- The certificate is valid for the entire period of FCH JU Programme as well as FP7 unless the beneficiary's methodology changes fundamentally<sup>13</sup> or if an audit or other control performed by the Commission or the FCH JU or on their behalf demonstrates a lack of compliance with the certified approved methodology and/or any significant abuse. The beneficiary has to declare to the Commission empowered by the FCH JU any fundamental change<sup>14</sup> in its methodology, including the date of the change. In these cases, the beneficiary has to submit another certificate on the methodology. Until the acceptance of this new certificate, the requirement to provide intermediate CFS would not be waived. A beneficiary that has been making false declarations or has seriously failed to meet its obligations under this grant agreement shall be liable to financial penalties according Article II.25 of FCH JU GA.

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<sup>13</sup> The yearly updates to the most recent financial data are not considered as fundamental changes.

<sup>14</sup> The yearly updates to the most recent financial data are not considered as fundamental changes.

- The FCH JU has the right to recover funds unduly paid, as well as to apply liquidated damages, when an inappropriate use of the approved methodology or any event which invalidate the basis on which the approval was granted is identified, for example during an on-the-spot-audit.

Consequences of the rejection by the Commission empowered by the FCH JU.

- In case the certificate cannot (yet) be accepted, a motivated decision will be communicated to the beneficiary. The beneficiary will be invited to submit another certificate on the methodology which is compliant with the requirements of the Commission and FCH JU. Until the acceptance of the certificate on the methodology, the requirement to provide intermediate certificates on the financial statements is not waived.

*Example:*

*A beneficiary which has obtained a Certificate on the Methodology and which is participating in a project with three reporting periods:*

<i>Claim No.</i>	<i>Eligible Costs</i>	<i>FCH JU contribution</i>	<i>Cumulative FCH JU contribution</i>	<i>Need of CFS</i>	
<i>1</i>	<i>EUR 380,000</i>	<i>EUR 190,000</i>	<i>EUR 190,000</i>	<i>NO</i>	
<i>2</i>	<i>EUR 410,000</i>	<i>EUR 205,000</i>	<i>EUR 395,000</i>	<i>NO</i>	<i>(1)</i>
<i>3</i>	<i>EUR 500,000</i>	<i>EUR 250,000</i>	<i>EUR 645,000</i>	<i>YES</i>	<i>(2)</i>
<i>Total</i>	<i>EUR 1,290,000</i>	<i>EUR 645,000</i> <i>Contribution to personnel &amp; overheads: EUR 500,000</i> <i>Contribution to other costs: EUR 145,000</i>	<i>EUR 645,000</i>		

*(1) Cumulative amount equal or above EUR 325,000 threshold. However, as a certificate on the methodology approved by the Commission ( empowered by the FCH JU) exists, there is no need to provide a CFS on interim payments*

*(2) A CFS covering all the eligible costs including personnel and indirect costs has to be provided. However, for personnel and indirect costs, the auditors will only have to focus on checking compliance with the certified methodology and systems, omitting individual calculations as indicated above.*

### **3. Certificate on average personnel costs (CoMAv) (see Article II.14 of FCH JU GA)**

A beneficiary may opt to declare average personnel costs. For this purpose, **a certificate on the methodology used to calculate the average personnel costs**, "certificate on average personnel costs" **may be submitted** to the services of the Commission empowered by the FCH JU for approval. This methodology must be consistent with the beneficiary's usual accounting practices. Averages calculated according to the certified and accepted methodology are deemed not to differ significantly from actual personnel costs.

For more information on acceptability criteria for the Certificate on average personnel costs (CoMav) please refer to point II.14.1 of this guide.

For the submission and approval of the CoMav the following stages can be identified:

1. Submission of the certificate on average personnel costs.

The certificate must be submitted in the form of a report of factual findings prepared and certified by an independent external auditor (or by a competent public officer for public bodies, secondary and higher education establishments and research organisations<sup>15</sup>) in accordance with the part relating to personnel costs of Form E in Annex VI to FCH JU GA.

The certificate can be submitted at any time during the implementation of FCH JU Programme as well as FP7 but at the earliest on the start date of the first grant agreement signed by this beneficiary under FCH JU Programme or FP7. This certificate can be introduced only by electronic mail to the following functional mailbox:

*RTD-FP7-Average-Personnel-Rate-Certification@ec.europa.eu*

2. Acceptance or rejection of the certificate by the Commission services empowered by the FCH JU.

The Commission will endeavour to accept or reject the certificate within 60 calendar days. The absence of a response within the 60 days of receipt of the request cannot be considered as an acceptance. This period can be longer in particular if some clarification or additional information is needed.

**Consequences of the acceptance and use of the certificate on the average personnel costs:**

- Once the certificate is accepted, the approved CoMav will be valid for all FCH JU and FP7 Grant Agreements signed by the beneficiary after the date of approval. The approved methodology may also be used retroactively for all ongoing FCH JU and FP7 Grant Agreements signed by the beneficiary before the date of approval of the CoMav. This retroactive effect will be applicable only to projects for which the period of submission of the final reports is not elapsed at the time of the notification of the CoM approval (i.e. time-limit for retroactive effect: end date of the project + 60 days).
- The certificate is valid for the entire period of FCH JU Programme as well as FP7 unless the beneficiary's methodology changes fundamentally or if an audit or other control performed by the FCH JU services or on its behalf demonstrates a lack of compliance with the certified methodology and/or any significant abuse. The beneficiary has to declare any change in its methodology. A beneficiary that has been found guilty of making false declarations or has seriously failed to meet its obligations under this grant agreement shall be liable to financial penalties

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<sup>15</sup> Cf. Article II.4.4 of FCH JU GA.

according Article II. 25 of the FCH JU GA.

- The FCH JU has the right to recover funds unduly paid, as well as to apply liquidated damages, when an inappropriate use or lack of compliance with the approved methodology and/or any significant abuse is identified, for example during an on-the-spot-audit.
- It does not waive the obligation to provide an intermediate CFS (whenever the EUR 325,000 threshold is reached) unless this is part of the certificate on the methodology.

Average personnel costs charged by this beneficiary according to the certified and accepted methodology are deemed not to significantly differ from actual personnel costs.

The auditors will therefore only have to focus on checking compliance with the certified methodology and systems, omitting individual calculations; such calculations may be however carried out in order to verify that the methodology has correctly been applied and that no abuse has taken place.

Practical examples and more information about the procedures to submit the certificate on average personnel costs are described in the guidance notes for beneficiaries and auditors at the following address:

<http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

#### 4. Comparison between certificates:

	Certificate on Financial Statements (CFS)	Certificate on the Methodology	Certificate on average personnel costs
<b>Basis</b>	<b>Article II.4</b>	<b>Article II.4</b>	<b>Article II.14</b>
<b>Who</b>	Mandatory for all beneficiaries based on conditions set up in the GA	Optional and foreseen for beneficiaries with multiple participations based on criteria defined by the Commission (see above)	Optional for any beneficiary applying average personnel costs
<b>Condition</b>	<p><b>Interim payment:</b> If total interim contribution <math>\geq</math> EUR 325,000 CFS is required</p> <p><b>Final payment:</b> FCH JU contribution not covered by a CFS <math>&gt;</math> EUR 50,000</p>	For beneficiaries with multiple participations	<p>The method has to be consistent with the usual cost accounting practice of the beneficiary</p> <p>The average costs cannot differ significantly from actual personnel costs.</p>

	<p>CFS is required</p> <p><b>Exceptions:</b></p> <p>When Certificate on the Methodology is accepted by the Commission empowered by the FCH JU, CFS not required for interim payments</p>		<p>The FCH JU defines acceptance criteria (see Art. II.14.1)</p>
<b>Scope</b>	<p>The project and reporting periods concerned. It covers all eligible costs not yet certified</p>	<p>By default, all the beneficiary's projects throughout FCH JU Programme as well as FP7</p>	<p>By default, all the beneficiary's projects throughout FCH JU Programme as well as FP7</p>
<b>Timing</b>	<p>At each reporting period when thresholds are reached</p>	<p>At any time of the implementation of FCH JU Programme as well as FP7 but at the earliest on the start date of the first GA signed by the beneficiary under FCH JU Programme or FP7</p>	<p>At any time of the implementation of FCH JU Programme as well as FP7 but at the earliest on the start date of the first GA signed by the beneficiary under FCH JU Programme or FP7</p>
<b>Form</b>	<p>Detailed description verified as factual by external auditor or competent public officer</p> <p>Independent report on factual findings (Annex VI Form D)</p>	<p>Independent report on factual findings (Annex VI Form E) by external auditor or competent public officer</p>	<p>Independent report on factual findings (Annex VI, relevant part of Form E) by external auditor or competent public officer</p>
<b>Advantages</b>	<p><b>Applying the CFS will increase the certainty on the eligibility of costs for the beneficiary</b></p>	<p>When a Certificate on the Methodology is accepted by the Commission empowered by the FCH JU,</p> <ul style="list-style-type: none"> <li>- no CFS required for interim payments;</li> <li>- no risk of rectification after audit if the method is applied correctly.</li> </ul>	<p>If the Methodology is accepted</p> <ul style="list-style-type: none"> <li>- the average costs are deemed not to differ significantly from actual costs;</li> <li>- no risk of rectification after audit if the method is correctly applied.</li> </ul>

## **Article II.5 of FCH JU GA – Approval of reports and deliverables, time-limit for payments**

### **Article II.5.1 – Approval of reports and deliverables at the end of each reporting period**

Following the modification of the FCH JU Grant Agreement adopted on 14/03/2013, at the end of each reporting period, the FCH JU shall evaluate and approve project reports and deliverables and disburse the corresponding payments as follows:

- for reporting periods ending before 31/12/2012 (including), within 105 days from the day of receipt of project reports and deliverables.
- for reporting periods ending as from 1/1/2013, within 90 days from the day of receipt of project reports and deliverables.

The new time limit of 90 days applies to all grant agreements, including grants signed before 31/12/2012, for which the reporting period is due after 1/1/2013.

## **Article II.6 of FCH JU GA – Payment modalities**

The following types of payments are foreseen:

### **Article II.6.1.a) – Pre-financing at the start of the project**

For more details concerning pre-financing, please refer to Article 6 of the FCH JU GA. It is important to remember that any interest generated on the pre-financing paid out by the FCH JU, yielded on the share of beneficiaries held by the coordinator, shall be considered to be a receipt to the project consortium. It shall be declared at each reporting period but will be taken into consideration only with the final payment<sup>16</sup> to verify compliance with the non-profit principle.

**It is recommended that the Consortium Agreement foresees the allocation of this interest in case it does not influence the final payment.**

For more information, please refer to the section devoted to Art.II.17 in this guide.

### **Article II.6.1.b) – Interim payments following the approval of periodic reports**

After approval of the periodic reports interim payments will follow and will be calculated on the basis of the accepted eligible costs and the corresponding reimbursement rates as indicated in Art.5 of FCH JU GA. The amounts paid for interim payments will correspond to the accepted FCH JU contribution. However, the total amount of interim payments + pre-financing will be limited to 80 % of the maximum FCH JU contribution. This may imply that in some cases payment for the interim periods may be reduced in order to respect this limit.

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<sup>16</sup> Information for beneficiaries who participate also in FP7: in FP7 the interest generated by the pre-financing will be deducted from the EU contribution and offset against the subsequent payment.

### Article II.6.1.c) – Final payment following the approval of final report

The final payment will be transferred after the approval of the final reports and consists of the difference between the calculated FCH JU contribution (on the basis of the eligible costs) minus the amounts already paid.

The total payment is however limited to the maximum FCH JU contribution as defined in Article 5 of FCH JU GA. If the total amount already paid would prove to be higher than the FCH JU contribution accepted, the FCH JU will recover the difference.

*Example 1:*

*Project duration: 3 years (3 reporting periods of 12 months)*

*Total costs: EUR 6,000,000*

*Maximum FCH JU contribution at 50 %: EUR 3,000,000*

*Ceiling: EUR 2,400,000 (20% retention)*

		<b>Amount paid per certain period</b>	<b>Cumulative payments</b>
<i>Period 0</i>	<i>P0: Pre-financing</i>	<i>EUR 1,200,000</i>	<i>EUR 1,200,000</i>
<i>Period 1</i>	<i>P1: Interim payment</i>	<i>EUR 1,000,000</i>	<i>EUR 2,200,000</i>
<i>Period 2</i>	<i>P2: Interim payment</i>	<i>EUR 200,000</i>	<i>EUR 2,400,000 to respect ceiling</i>
<i>Period 3</i>	<i>Final payment</i>		
	<i>Final reports show that the total eligible costs amounted to 5,600,000. Consequently, FCH JU contribution shall be limited to EUR 2,800,000. Final payment will be then a difference between EUR 2,800,000 and EUR 2,400,000 already paid.</i>		
		<i>EUR 400,000</i>	<i>EUR 2,800,000</i>

*Example 2*

*Project duration: 2 years (1 reporting period of 24 months)*

*Total costs: EUR 4,000,000*

*Maximum FCH JU contribution at 50 %: EUR 2,000,000*

*Ceiling: EUR 1,600,000 (20% retention)*

		<b>Amount paid per certain period</b>	<b>Cumulative payments</b>
<i>Period 0</i>	<i>P0: Pre-financing</i>	<i>EUR 1,600,000</i>	<i>EUR 1,600,000</i>
<i>Period 1</i>	<i>Final Payment</i>		
	<i>Final reports show that the total eligible costs amounted to EUR 5,000,000. However, FCH JU contribution cannot exceed the maximum amount of EUR 2,000,000 (Article 5 of FCH JU GA). Therefore, FCH JU will cover the difference between max. FCH JU contribution and amount already paid: EUR 2,000,000 – EUR 1,600,000 = EUR 400,000</i>		
		<i>EUR 400,000</i>	<i>EUR 2,000,000 maximum</i>

## Article II.6.4 – Conversion rates

### 1. Recording in the beneficiary's accounting books of costs incurred in a currency other than the one of the accounting books of the contractor (applicable to all beneficiaries).

When recording in their accounting books costs incurred in a currency different than the currency of these books (for example, a UK beneficiary buying some equipment in the USA), the beneficiaries shall convert these costs in accordance with the applicable national law and their usual accounting and management principles and practices.

### 2. Reporting costs in EUR in the Forms C submitted to the FCH JU (applicable only to beneficiaries whose accounting books are not in EUR).

**Costs shall always be reported in EUR in the financial statements submitted to the FCH JU.** Beneficiaries with accounts in currencies other than EUR shall report in EUR on the basis of the exchange rate that would have applied either:

- on the date that the actual costs were incurred or
- on the basis of the rate applicable on the first day of the month following the end of the reporting period.

For both options, the daily exchange rates are fixed by the European Central Bank (ECB) and may be obtained at the following internet address: <http://www.ecb.int/stats/eurofxref/> or, for the rate of the first day of the month following the reporting period, in the relevant OJ of the European Union. The choice must be the same for all reporting periods in a given GA. For the days where no daily exchange rates have been published, (for instance Saturday, Sunday and New Year's Day) beneficiaries must take the rate on the next day of publication. The use of other sources for exchange rates (other than the ECB) is admissible only where no other solution is possible (i.e. when ECB does not include the daily exchange rates for a particular currency). In case the ECB does not publish exchange rates for a particular currency, beneficiaries could use the exchange rates published by the Directorate General Budget of the European Commission, (Euroinfo): <http://ec.europa.eu/budget/inforeuro/index.cfm?Language=en> or alternatively the internal practice of the beneficiary provided it is not used only for FCH JU grants reporting purposes.

Beneficiaries with accounts in EUR shall convert costs incurred in other currencies according to their usual accounting practice.

## SECTION 3: IMPLEMENTATION

### Article II.7 of FCH JU GA – Subcontracting

#### Article II.7.1 – Definitions

The general rule is that beneficiaries shall implement the **indirect action** and shall have the

necessary resources to that end. However, it is accepted that, when the GA provides for it accordingly, and as an exception certain parts of the work may be subcontracted.

A subcontractor is a type of third party, i.e. a legal entity which is not a beneficiary of the FCH JU GA, and is not a signatory to it. It appears in the project because one of the beneficiaries appeals to its services to carry out part of the work, usually for specialised jobs that it cannot carry out itself or because it is more efficient to use the services of a specialized organisation (e.g. setting up a website for the project).

The subcontractor is defined by certain characteristics:

- The agreement is based on "business conditions"; this means that the subcontractor charges a price, which usually includes a profit for the subcontractor. This makes it different from other third parties' contributions where the third party charges only for the costs of the activity.
- The subcontractor works without the direct supervision of the beneficiary and is not hierarchically subordinated to the beneficiary (unlike an employee).
- The subcontractor carries out parts of the work itself, whereas other third parties (with some exceptions) only make available their resources to a beneficiary usually on the basis of a previous agreement and in order to support a beneficiary by providing resources.
- The subcontractor's motivation is pecuniary, not the research work itself. It is a third party whose interest in the project is only the profit that the commercial transaction will bring. A subcontractor is paid in full for its contribution made to a project by the beneficiary with whom it has a subcontract. As a consequence subcontractors do not have any IP rights on the foreground of the project.
- The responsibility vis-à-vis the FCH JU for the work subcontracted lies fully with the beneficiary. The work that a subcontractor carries out under the project belongs to the beneficiary in the FCH JU GA. A subcontractor has no rights or obligations vis-à-vis the FCH JU, or the other beneficiaries, as it is a third party. However, the beneficiary must ensure that the subcontractor can be audited by the FCH JU, the Commission or the Court of Auditors.

In principle, the beneficiary should not subcontract part of the work to its affiliates. These should be identified as third parties linked to a beneficiary and included in the FCH JU GA via special clause 11.

**Accordingly, subcontracting between beneficiaries in the same FCH JU GA is not to be accepted.** All participants by definition contribute to and are interested in the project, and where one participant needs the services of another in order to perform its part of the work, it is the second participant who should declare and charge the costs for that work. In the Consortium Agreement they may define provisions to cover those costs not reimbursed by the FCH JU.

Subcontracting costs are direct costs. They have to be identified by beneficiaries in the financial statement form (Form C, Annex V to FCH JU GA). Like for any costs, the funding rate applicable to subcontracting costs is the funding rate (indicated in Art.5 of the FCH JU

GA) applicable to the type of activity (RTD, etc.) under which the subcontracting costs are claimed.

## Article II.7.2 – Tasks which can be subcontracted and conditions

Subcontracting may concern only certain parts of the project, as the implementation of the project lies with the participants. Therefore, the subcontracted parts should in principle not be "core" parts of the project work. In cases where it is proposed to subcontract substantial/core parts of the work, this question must be carefully discussed with and approved by the FCH JU and those tasks identified in Annex I to FCH JU GA. Usually in such cases, the intended subcontractor could instead become a beneficiary, or the consortium should find another beneficiary able to perform that part of the work.

### *What is a "core" part of the work?*

Usually subcontracts do not concern the research work itself, but tasks or activities needed in order to carry out the research, auxiliary to the main object of the project. Subcontracts may involve large amounts of money, even though they have nothing to do with the core parts of the project. Their purpose might be just to facilitate/make possible the research work. In projects where research is not the main purpose (like in coordination and support actions - CSA) the core part should be understood as referring to the main activity of the project. For instance, the core activity of a CSA project may be the organisation of a cycle of conferences. In any case, it is recommended that the particular case be discussed with the FCH JU.

#### *Examples:*

- *Company "A" needs to dig a 300-metre deep trench in order to make some experiments. A subcontract to find an organisation with the adequate equipment is required. This may consume 50% of the total project cost - however it is justified.*
- *Company "B" needs to collect data and interrogate databases in different countries in order to decide on the best place to install a pilot plant. A company specialized in electronic data collection is subcontracted for that task.*

Coordination tasks of the coordinator such as the distribution of funds, the review of reports and others tasks mentioned under Article II.23 to FCH JU GA cannot be subcontracted. Other project management activities could be subcontracted under the conditions established for subcontracting.

As mentioned above, the beneficiary remains responsible for all its rights and obligations under the FCH JU GA, including the tasks carried out by a subcontractor. The beneficiary must ensure that the intellectual property that may be generated by a subcontractor reverts to the beneficiary so that it can meet its obligations towards the other beneficiaries in the FCH JU GA. Any bilateral agreement between subcontractor and beneficiary should include this, as well as the respect of the obligations mentioned in Articles II.10, II.11, II.12, II.13 and II.22 of the FCH JU GA which concern, among others, obligations related to information and communication of data, and financial audits and controls.

### ***Details to be included in Annex I and selection of subcontractors***

The need for a subcontract must be detailed and justified in Annex I to FCH JU GA, following the principles mentioned above and taking into account the specific characteristics of the project. It is **the work (the tasks)** to be performed by a subcontractor that has to be identified in Annex I to the FCH JU GA. The identity of the subcontractors does not need to be indicated in Annex I to FCH JU GA. However, if the identity of the subcontractor is indicated, the beneficiaries are nevertheless bound to demonstrate that the selection of the subcontractor complied with the principles described below.

The description of the tasks to be subcontracted should include a financial estimation of the costs. It is also important to have regard to the procedure to be used for the selection of the subcontractor, which should be proportionate to the size of the subcontract.

Article II.7.2 of FCH JU GA requires beneficiaries to ensure that transparent bidding procedures are used before selecting a subcontractor.

"Any subcontract, the costs of which are to be claimed as an eligible cost, must be awarded to the bid offering best value for money (best price-quality ratio), under conditions of transparency and equal treatment."

The procedure to be applied for the award of subcontracts depends on the status of the beneficiary, i.e. if the beneficiary is a public or a private entity:

- Public entities must follow the procurement principles established by their national authorities. For subcontracts exceeding certain amounts, the directive on public procurement of services applies and the publication of a call for tenders is mandatory.

**However, they must in any case comply with the terms of the GA.**

*Example:*

*In an FCH JU project, a beneficiary (university) subcontracts task X for an amount of EUR 50,000. If this amount is below the threshold set by its national public rules (i.e. EUR 100,000), then the subcontract must comply at least with the conditions set out in the GA, even if the national rules do not set out any specific requirement.*

- Private legal entities must follow the rules that they usually apply for the selection of procurement contracts, respecting in any case the terms of the FCH JU GA. The publication of a call for tenders is normally not necessary for private legal entities, but they must at least require submission of several quotes (usually a minimum of three), unless it has an established framework contract for the provision of those services. There must be a proportional relationship between the size in work and cost of the tasks to be subcontracted on the one hand and the degree of publicity and formality of the selection process on the other.

The **procedure must ensure conditions of transparency and equal treatment**. At the request of the FCH JU and especially in the event of an audit, beneficiaries must be able to demonstrate that they have respected the conditions of transparency and equal

treatment. Beneficiaries must be able to prove that:

- the criteria and conditions of submission and selection are clear and identical for any legal entity offering a bid;
- there is no conflict of interest in the selection of the offers;
- the selection must be based on the best value for money given the quality of the service proposed (best price-quality ratio). It is not necessary to select the lowest price, though price is an essential aspect.
- the criteria defining "quality" must be clear and coherent according to the purpose of the task to subcontract, in order to provide a good analysis of the ratio price/quality.

### ***Framework Contracts***

Many companies have framework contracts with a third party to carry out routine or repetitive tasks (e.g.: an external auditor who periodically audits the accounts of a beneficiary). They have been established before the beginning of the project, and are the usual practice of the beneficiaries for a given type of task. These frameworks contracts can be used to carry out tasks necessary for implementing the FCH JU project provided they have been established on the basis of the principles of best value for money and transparency mentioned above.

### **Article II.7.3 – Minor tasks**

Minor tasks correspond to minor services, which are not project tasks identified as such in the Annex I but are needed for implementation of the project (quite different from, for instance, analyzing samples or building a pilot plant). They do not have to be specifically identified in Annex I to FCH JU GA, as by definition their importance is minor (the amounts involved are also normally small). However, the selection procedure mentioned above also applies to these subcontracts.

**The criteria to decide whether a subcontract concerns minor tasks are qualitative and not quantitative:**

*Examples:*

*Organisation of the rooms and catering for a meeting (logistic support)*

*Printing of material, leaflets, etc.*

*Services related to setting up and maintenance of a project website*

Sometimes the purchase of equipment or consumables is associated with the provision of a service. Depending on the nature of the services provided, they may be considered subcontracts or part of the equipment purchase. If the service is part of the "package" of equipment purchase then it will be considered to be part of the equipment purchase.

## **Article II.8 of FCH JU GA - Suspension of the project**

Under the conditions mentioned in Article II.8 of FCH JU GA, the FCH JU may suspend the whole project or parts of the project. Suspending a project has the effect of interrupting the execution of a project in order to fix specific problems or to re-establish an operational status. Once the reasons for the suspension are no longer present, the project can - upon the receipt of written confirmation by the FCH JU - continue at the stage reached before the suspension.

During the period of suspension, no costs can be charged to the project for carrying out any part of the project that has been suspended. If the FCH JU ends the suspension and allows the project to continue, the remaining project budget can be used under the given rules. If the suspension leads to a termination of the FCH JU GA, no further costs can be charged to the project except for costs described in Article II.38 of FCH JU GA.k

## **Article II.9 -> II.13 of ECGA - No financial issues**

## **PART "B": FINANCIAL PROVISIONS**

### **SECTION 1: GENERAL FINANCIAL PROVISIONS**

#### **Article II.14 of FCH JU GA - Eligible costs of the project**

##### ***Principle***

The maximum FCH JU grant is based on an estimation of eligible costs prepared by the partners and negotiated with the FCH JU, to which the funding rate is applied according to the activity and type of organisation (see Article 5 of FCH JU GA).

Estimation of eligible costs of the project must be shown in detail in the provisional budget included in the Grant Preparation Forms (GPF) and subsequently in the Description of Work (Annex I to FCH JU GA).

In order to be considered for reimbursement, costs incurred by the beneficiaries in the course of the project, must satisfy the eligibility criteria laid down by the FCH JU GA. It must be stressed that subject to these criteria, it is always the FCH JU which takes the final decision on the nature and amount of the costs to be considered eligible, either when analyzing proposals for the establishment of the estimated budget to be annexed to the FCH JU GA or when examining financial statements for the purposes of determining the FCH JU contribution.

##### ***Compatibility of FCH JU funded projects with other sources of EU funding***

The general rule is that the beneficiary has to co-finance the costs of the project. The question arises whether an applicant, faced with the need to provide a contribution to a project under

FCH JU Programme, could use funds it has received from **other** EU instruments (Structural Funds, CIP projects) to cover the cost.

According to Article 111 of the Financial Regulation of the European Communities<sup>17</sup> and Article 97 of the FCH Financial Rules each action may give rise to the award of only one grant from the EU budget to any one beneficiary. Therefore, the same action may not be financed by other EU programmes.

In the case of the applicant's contribution to a project financed with the Structural Funds, the answer is a definite no. Structural Funds must be co-financed by national and regional public and private funds. This means that funds received from another Union programme, like FP7 or CIP<sup>18</sup>, cannot be used to provide the required national contribution to a Structural Funds programme. The same prohibition applies in the other direction to the use of Structural Funds to cover the applicant's contribution to a project funded by FCH JU, FP7 or the CIP.

While co-financing the same project by different EU funds is either prohibited or not practically possible, it is possible to combine the resources of the FCH JU, Structural Funds, FP7 and CIP in a **complementary way**. This means using different funds for different actions (with separate cost statements/bills), which are carried out in a related or consecutive manner.

For more information please go to the practical guide to EU funding opportunities for research and innovation at the following address:

[http://ec.europa.eu/research/participants/portal/ShowDoc/Extensions+Repository/General+Documentation/Guidance+documents+for+FP7/Financial+issues/new-practical-guide-web\\_en.pdf](http://ec.europa.eu/research/participants/portal/ShowDoc/Extensions+Repository/General+Documentation/Guidance+documents+for+FP7/Financial+issues/new-practical-guide-web_en.pdf)

## Article II.14.1 – Eligibility criteria

To be considered eligible costs must be:

- **actual (Article II.14.1.a) of FCH JU GA)**

Costs must be actually incurred (actual costs). That means that they must be real and not estimated, budgeted or imputed.

Where actual costs are not available at the time of establishment of the financial statements, the closest possible estimate can be declared as actual if this is in conformity with the accounting principles of the beneficiary. This must be mentioned in the financial statement. Any necessary adjustments to these claims must be reported in the financial statement for the subsequent reporting period. Any adjustment requires the submission of a supplementary Form C for the period, where the details of that adjustment will appear. Together with the new Form C, the justification and details for the adjustment must be presented by the beneficiary in the Periodic Management Report (in the Use of Resources).

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<sup>17</sup> Now European Union and Euratom

<sup>18</sup> Competitiveness and Innovation Framework Programme (CIP)

Therefore, the procedure to follow in order to correct a previous Form C is this:

- One Form C for the current period;
- One separate Form C for every previous period where adjustments are needed, which will include **ONLY** those adjusted (negative/positive) costs of that specific previous period.

If these costs need to be covered by a Certificate on Financial Statements (CFS), they could be supported within the CFS for the current period but with a specific indication by the auditor certifying both the supplementary costs incurred in previous periods and those claimed in the current one.

*e.g. 2009: One form C with EUR 100,000 for personnel costs incurred in 2009  
2010: One form C with EUR 120,000 personnel costs incurred in 2010 and another form C correcting the personnel costs of 2009 with a figure of EUR -1,500 and related reduction in FCH JU contribution (e.g. EUR -750).*

For the last period the costs should be submitted based on the information available at the moment of preparing the financial statement but the beneficiary should always provide the closest possible estimate.

- **incurred by the beneficiary (Article II.14.1.b) of the FCH JU GA)**

Supporting documents proving **occurrence**, the bookkeeping and the payment of the costs by the beneficiaries must be kept for all costs and for up to five years after the end of the project.

- **incurred during the duration of the project, with the exception of costs relating to final reports, certificates on the financial statements (Article II.14.1.c of FCH JU GA) and other requirements of the FCH JU.**

Only costs generated during the lifetime of the project can be eligible; as a result the period during which the project starts determines the beginning of the period of eligibility of the corresponding costs (Article 3 of the FCH JU GA – Duration and start date of the project). However, for beneficiaries working on accrual accountancy basis, the date when the costs are incurred is the date when they are entered into the books according to applicable national accounting rules. Therefore, for these beneficiaries, costs relating to e.g. travels, may be potentially eligible if the invoices documenting them were entered into the books after the start date of the project. In this sense, costs must be incurred during the duration of the project, which does not necessarily mean that the cost has in fact to be actually paid during that period.

*E.g. Salaries of staff for the last month of the project which are paid following the end of the project.*

For beneficiaries working on **cash based accounting**, the date when the costs are incurred is the date when the payment is executed.

For beneficiaries working on **accrual based accounting**, the actual payment is not the event that determines whether the cost was incurred during the project duration. The date when the costs are incurred is the earlier of the 2 following dates: the date when an accrual should be recorded in accordance with the national accounting law and the usual accounting and management principles and practices of the beneficiary or the date when the invoice is entered into the books.

Therefore, costs relating to e.g. travels, may be potentially eligible for these beneficiaries if the accrual or invoice relating to these costs is entered into the books after the start date of the project.

The FCH JU GA foresees an exception for costs incurred in relation to final reports and reports corresponding to the last period as well as certificates on the financial statements when requested at the last period and final reviews if applicable. These costs may be incurred during the period of up to 60 days after the end of the project or the date of termination, whichever is earlier.

Furthermore, costs arising from other requirements of the FCH JU such as financial guarantees or opening specific bank account for the project are eligible.

It may be that despite that the ownership of the good has actually been transferred **or the service provided** some costs have not yet been paid when the request for the final payment is sent. This situation is acceptable if it is certain that a debt exists (invoice or equivalent) for services or goods actually supplied during the lifetime of the project and the final cost is known; the FCH JU is entitled to check whether payment was actually made by asking for supporting documents to be produced when the payment has been made or during an ex post audit carried out later.

However, in the specific case of travel costs for a kick-off meeting, the FCH JU will not reject costs booked in the accounts outside (before) the start of the project if the relevant meeting is held during the project period and it can be reasonably justified that this was the most economically efficient solution.

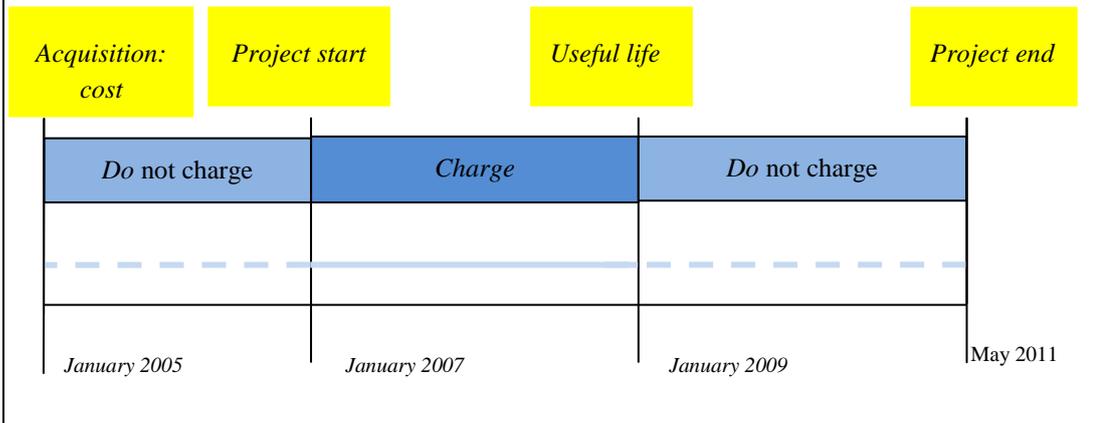
Costs related to the **drafting of the Consortium Agreement** are not eligible insofar as the Consortium Agreement is deemed to have been concluded by the time of the signature of the GA, in other words, it must be finalised before (Article 1 of the FCH JU GA). Costs related to **updating the Consortium Agreement**, however, are eligible.

### **Can depreciation costs for equipment used for the project but bought before the start of the project be eligible?**

If the equipment has not yet been fully depreciated according to the usual accounting and management principles and practices of the beneficiary, then the remaining depreciation (according to the amount of use, in percentage and time) can be eligible under the project.

*Example:*

*Equipment bought in January 2005, with a depreciation period of 48 months according to the beneficiary accounting practices. If a GA is signed in January 2007 (when 24 months of depreciation have already passed), and the equipment is used for this FCH JU GA, the beneficiary can declare the depreciation costs incurred under the project for the remaining 24 months in proportion of the allocation of the equipment to the research project.*



Costs related to preparing, submitting and negotiating the proposal can never be charged to the project.

- **determined according to the usual accounting and management principles and practices of the beneficiary identifiable and verifiable (Article II.14.1.d) of the FCH JU GA)**

Costs must be determined according to the applicable accounting rules of the country where the beneficiary is established and "according to the usual accounting and management principles and practices of the beneficiary". However, this principle is not absolute; it must be considered together with the other eligibility criteria, and therefore could not be invoked in order to deviate from other provisions of the FCH JU GA.

*Example:*

*VAT could be considered as a cost by the accounting of a beneficiary, but this cannot be used to claim it as an eligible cost with an FCH JU project, as VAT is not an eligible cost (article II.14.3.a)*

This also means that they do not have the possibility to create specific accounting principles for FCH JU projects (e.g. a bonus payment for researchers only for the time spent on FCH JU projects). If in their usual accounting principles a particular cost is always considered as an indirect cost they have to consider it also as an indirect cost in an FCH JU indirect action. An exception to this is when a beneficiary needs to introduce changes in order to bring its "usual accounting principles and practices" in line with other provisions of the grant agreement. It is clear than in that case those changes are not only possible but compulsory.

*Example:*

*time recording practices, indirect cost calculations, productive hour's approaches.*

**Costs which cannot be justified are, as a matter of principle, to be considered not eligible.** The grant agreement states that "the beneficiary's internal accounting and auditing procedures must permit direct reconciliation of the costs and revenue declared in respect of the action with the corresponding accounting statements and supporting documents".

The purpose of this provision is to give some assurance about the source of the costs and receipts declared, which must come directly from the beneficiary's accounts and be backed up by appropriate supporting documents. However, when the beneficiary opts to charge **indirect costs** using a **flat rate** (see Art. II.15.2b and II.16.5 of FCH JU GA), by definition these indirect costs **do not need to be backed up by supporting evidence.**

More explanations on the justification and recording of costs are given in Article II.15 of FCH JU GA.

- **used for the sole purpose of achieving the objectives of the project and its expected results, in a manner consistent with the principles of economy, efficiency and effectiveness (Article II.14.1.e) of FCH JU GA)**

These costs must be essential for the performance of the project and would not be incurred if the project did not take place. The beneficiary must be able to justify the resources used to attain the objectives set. The FCH JU grant must not be diverted to finance other projects or other activities.

**The principles of economy, efficiency and effectiveness:** refers to the standard of "good housekeeping" in spending public money effectively. Economy can be understood as minimising the costs of resources used for an activity (input), having regard to the appropriate quality and can be linked to efficiency, which is the relationship between the outputs and the resources used to produce them. Effectiveness is concerned with measuring the extent to which the objectives have been achieved and the relationship between the intended impact and the actual impact of an activity. Cost effectiveness means the relationship between project costs and outcomes, expressed as costs per unit of outcome achieved.

Costs must be reasonable and comply with the principles of sound financial management, with the objectives of the project and with the formal aspects of the reporting of this expenditure, including the follow-up of the budget in terms of budget allocation and schedule of the cost.

- **recorded in the accounts of the beneficiary and, in the case of any contribution from third parties, recorded in the accounts of the third parties (Article II.14.1.f) of the FCH JU GA)**
- **have been indicated in the estimated overall budget annexed to the FCH JU GA – Annex I (Article II.14.1.g) of the FCH JU GA)**

When the maximum FCH JU financial contribution is determined, the eligible costs will appear in the estimated budget. It is possible, without a supplementary agreement, to authorize certain transfers of costs between eligible cost items in the estimated budget within the overall amount of eligible costs, in the conditions mentioned in Article 5.2 of the FCH JU GA.

Costs like personnel, durable equipment, travel and subsistence, subcontracting, consumables, etc. may be considered as eligible costs, provided they meet the definition of eligible costs in the FCH JU GA and are incurred in the context of the activities permitted by the instrument (see examples in Article II.15 of the FCH JU GA).

## Acceptability criteria for average personnel cost

The new criteria adopted established in Article II.14.1 of the FCH JU GA as modified by the FCH JU on 30 May 2011 provide for the acceptance of the vast majority of average personnel cost methods used by beneficiaries as their usual cost accounting practice. Those criteria are as follows:

- a. *The average personnel cost methodology shall be the one declared by the beneficiary as its **usual cost accounting practice**; as such it shall be consistently applied to all indirect actions of the beneficiary under the FCH JU Programme as well as the EU Framework Programmes;*
- b. *The methodology shall be based on the actual personnel costs of the beneficiary as registered in its statutory accounts, without estimated or budgeted elements;*
- c. *The methodology shall exclude from the average personnel rates any ineligible cost item and any costs claimed under other costs categories in order to avoid double funding of the same costs;*
- d. *The number of productive hours used to calculate the average hourly rates shall correspond to the usual management practice of the beneficiary provided that it reflects the actual working standards of the beneficiary, in compliance with applicable national legislation, collective labour agreements and contracts and that it is based on auditable data.*

These criteria will apply without prejudice to the other general eligibility criteria set out in the FCH JU GA (i.e. cost should be incurred during the duration of the project, indicated in the overall budget, etc). Personnel costs declared to FCH JU projects resulting from the application of calculation methods fulfilling the above mentioned criteria are deemed not to differ significantly from the actual costs.

**Beneficiaries are no longer required to submit a Certificate on Average Personnel Costs (CoMAv)** for approval as a prior condition for the eligibility of the costs. Nevertheless, the CoMAv remains as an option offering beneficiaries the possibility to obtain prior assurance on the compatibility of the methodology in place with FCH JU rules. All beneficiaries applying average personnel costs are entitled to submit a CoMAv. Methodologies submitted for

approval will be assessed against the criteria defined above. Procedures for the submission and treatment by the Commission (empowered by the FCH JU) of the CoMAv remain unchanged and can be consulted at the *Guidance Notes for Beneficiaries and Auditors*<sup>19</sup>. The FCH JU has updated the Form D (Terms of reference for the Certificate on Financial Statement) and Form E (Terms of reference for the Certificate on the methodology, including CoMav) of the FCH JU GA in order to adapt the templates to the new criteria. Further guidance on certification can be found in the above mentioned *Guidance Notes for Beneficiaries and Auditors*.

## Particular aspects of the acceptability criteria:

### Criterion a: Usual cost accounting practice declared by the beneficiary

The methodology applied should be the usual cost accounting practice of the beneficiary. The terms "...shall be the one declared by the beneficiary" means that the FCH JU will consider that by submitting and signing financial statements (Form C) calculated by means of a given methodology, the beneficiary is declaring that such methodology is its usual costs accounting practice. Where necessary this usual cost accounting practice should be adjusted in order to fulfil all the acceptability criteria. For instance, this would be the case when the usual personnel cost calculation method includes ineligible items which would need to be removed (e.g. indirect taxes).

This criterion does not require the average personnel costs methodology to be equal for all types of employees, departments or cost centres. If, for instance, the usual cost accounting practice includes different calculation methods for permanent personnel and temporary personnel, this is acceptable. However, the overall methodology must be consistently applied in all FCH JU and FP7 participations of the beneficiary and cannot be adapted ad-hoc for particular research actions or specific projects.

### Criterion b: Based on the statutory accounts

In order to guarantee that the average cost rates used in the methodology are based on actual costs, the calculation method should compute personnel cost rates resulting from the payroll figures registered in the statutory accounts of the entity.

Budgeted or estimated figures are not costs actually incurred and, as such, cannot be accepted as eligible components of the personnel costs. Notwithstanding this, when the actual amount of some element of the personnel costs is not known at the time of the preparation of the financial statements (Form C), beneficiaries are entitled to use the last available financial data or the best possible estimation of the actual costs. In those cases, the costs claimed must be adjusted according to the actual costs incurred as registered in the beneficiary's accounts in the subsequent period if the information is already available or, at the latest, at the time of the submission to the FCH JU of the final report of the project. The resulting adjustment to the costs already charged should be declared in an additional Form C indicating that it is an adjustment to a previous statement (by ticking out the yes option in the specific box).

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<sup>19</sup> <http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

### **Criterion c: Excluding ineligible costs and double funding**

Cost declared to be ineligible by the FCH JU, in particular those enumerated in Article II.14.3 of Annex II to FCH JU GA, need to be removed from the personnel rates. If the usual accounting practice includes any element considered ineligible, the personnel rates would need to be adjusted by withdrawing such components from the pool of personnel cost. In case of doubts regarding the eligibility of an item, the question can be raised to the FCH JU via the generic mail-box: *fch-projects@fch.europa.eu*.

The methodology should also prevent double funding of the same costs. As an example, certain methodologies include in the calculation of the personnel rates cost components which are part of the indirect costs in the beneficiaries' accounts. In such situations, if the beneficiary uses real indirect costs, the methodology should ensure that those items are removed from the pool of costs used to calculate the indirect cost charged to the FCH JU projects. In the particular case of beneficiaries applying a flat-rate indirect cost method, the personnel cost cannot include any indirect cost element as these are covered by the flat-rate.

### **Criterion d: Productive time**

As a general rule, the number of productive hours should be that applied as the usual practice of the beneficiary. For instance, beneficiaries could use the actual productive hours of each researcher according to the time-records or instead use a standard number of productive hours (generally annual productive hours). When the beneficiary applies a standard number of productive hours, this should be representative of its working standards. Background information used to determine the standard productive hours should be available and verifiable.

An illustrative example could be a case where a beneficiary deducts 7 working days a year as average illness absence of the employees when calculating the annual productive hours. The records substantiating this figure should be available in case of an audit. Besides, if the records on illness absences show that systematically the number of days is lower than 7, this could be a reason for the FCH JU to re-evaluate the appropriateness of the standard number of annual productive hours.

Please note that the FCH JU does not consider billable hours (hours that can be directly charged to customer/grantors) as equivalent to productive time. Billable hours are commonly much lower than productive hours, resulting in an overstatement of the personnel costs.

For more information on the concept of productive hours please refer to the section for Article II.15 of this guide.

### **Retro-active application**

These new criteria are applicable to costs declared in all FCH JU projects as well as FP7 projects. Beneficiaries can therefore directly apply their usual average personnel costs calculation method, if compatible with these criteria, for any cost declaration. No amendments to grants are necessary. The new criteria will apply directly to all ongoing projects.

However, for **closed grants** (i.e. those for which the last payment has already been made by the FCH JU and the 2 months period for the Coordinator to change it has elapsed) the beneficiary is not allowed to recalculate costs which were already reported by application of other calculation methods due to the fact that the usual methodology is now acceptable under the criteria described above. For instance, if the beneficiary has charged individual actual costs due to the fact that its average personnel cost methodology was not acceptable by the Commission empowered by the FCH JU under the prior criteria, the beneficiary cannot recalculate at present those costs by using averages, even if its methodology is now acceptable.

For **ongoing grants where Forms C have already been paid**, if personnel costs have been submitted based on a certified methodology OR if the beneficiary has claimed actual personnel costs, beneficiaries do not need to submit adjustments referring to periods for which they claimed individual actual costs or average personnel costs on the basis of methodology certified according to the acceptability criteria in force before the 30<sup>th</sup> May 2011. However, the beneficiary may take the initiative to modify the personnel costs on the grounds that it is in line with its usual accounting practice and with the new criteria. In this case the beneficiary is requested to submit adjustments to all Forms C already paid in all ongoing grants. There is no specific need for a CoMAv due to the retroactive validity of the new provisions. If costs need to be corrected, this will be done in the next reporting period as adjustment to previous period.

The FCH JU will also apply these new criteria in all ongoing and future audits.

## Certificates on the methodology for average personnel costs

The ex-ante<sup>20</sup> certificates on the methodology are a measure aimed to prevent interpretational errors of the FCH JU rules. Apart from the clerical mistakes, based on Commission's experience, most errors found during audits are the result of incompatibilities between certain costs accounting practices and the financial provisions, or due to an incorrect reading of rules. The Certificates on the methodology allow beneficiaries to submit a description of the calculation methods applied for the FCH JU and FP7 projects and obtain from the Commission (empowered by the FCH JU) the assurance that the methodology, as described in the certificate, is in line with the rules of the framework programme. In order to simplify the administrative requirements for beneficiaries, the FCH JU has opted, in line with the Commission's decision on simplification, not to continue requiring the submission of the CoMAv for beneficiaries applying average personnel costs. However, in view of the evident preventive value of this certificate, it remains as a voluntary option for these beneficiaries.

During the period of application of the interim acceptability criteria adopted in June 2009, a certain number of beneficiaries which participate in both FP7 and FCH JU projects have implemented adjustments in their usual methodology in order to obtain its approval by the Commission. All methodologies approved under the former criteria fulfil, by definition, the new criteria. Thus, those beneficiaries who have obtained the approval of their average personnel costs methodology prior to this decision (under the former criteria) are entitled either to:

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<sup>20</sup> In this context, ex-ante means prior to the declaration of the costs

- Continue applying the approved methodology;
- Or to revert to their usual accounting practice, if different from the approved methodology, in so far as this fulfils the new acceptability criteria.

Beneficiaries opting to revert to their usual accounting practice are entitled to submit for approval a new Certificate on the methodology. It is recommended that beneficiaries in this situation inform the Commission on their choice via the functional mailbox:

*RTD-FP7-Average-Personnel-Rate-Certification@ec.europa.eu*

## **FCH JU audits**

In case of an audit, the FCH JU auditors will verify that the average personnel costs calculation method fulfils the acceptability criteria. If a Certificate on the Methodology (CoM) covering average personnel costs or a Certificate on Average Personnel Costs (CoMAv) has been approved for the beneficiary, this will be duly taken into account by the auditor. If the average personnel costs methodology is compliant with the acceptability criteria, the audit will verify the correct implementation of the methodology, the respect of other general eligibility criteria and the accurate calculation of the costs (i.e. free of clerical mistakes).

In case that the methodology fails to respect one or several criteria, the auditor will correct, when possible, the average rates applied by the beneficiary and propose the corresponding financial adjustments on such basis. This can occur, for instance, if the auditor notices ineligible costs included in the calculation of the personnel rates and the precise amount can be identified and removed in order to re-calculate the rates. The FCH JU auditor will not calculate the individual actual costs of the researchers participating in the EU projects except in exceptional cases. These exceptional cases could be, among others:

- When the average personnel cost methodology is not the usual cost accounting practice of the beneficiary for FCH JU and FP7 projects.
- When the methodology is not based on the actual payroll costs registered in the statutory accounts of the entity.
- For cases of ineligible items, double charging of costs or use of estimated or budgeted elements: when the beneficiary does not grant access to the necessary information and supporting documents allowing to re-calculate the average personnel rates.

Finally, costs reported prior to the adoption of this decision (and not adjusted later) will be audited following the calculation method applied by the beneficiary at the time of the cost declaration. In particular:

- For cost statements where the beneficiary had applied individual personnel costs, the auditor will verify the calculations on such basis;
- For costs statements submitted by application of average personnel costs, the auditor will apply the current acceptability criteria.

## **Flat-rate financing for SME owners and natural persons: The case of physical persons and SME owners who do not receive a salary**

**New situation:** Following a decision of the FCH JU Governing Board of 30/05/2011, Article II.14.1 of Annex II of the FCH JU GA has been modified in order to allow SME owners who do not receive a salary and other natural persons who do not receive a salary, to charge as personnel costs a flat rate based on the allowances used in the FP7 People Specific Programme for researchers ("Marie Curie" flat-rates).

**Target group:** SME owners and other natural persons who do not receive a salary, including those who are remunerated/compensated by whichever other means such as dividends, service contracts between the company and the owner, etc.

"*A contrario*", employees of the SME and other natural persons who do receive a salary, (no matter how low) registered as such in its accounts **cannot** use this flat rate.

It might, however, be possible to use this flat-rate for the cases where the SME owner can show evidence that his/her salary corresponded exclusively to the management of the SME, not to his/her research work.

**Procedure:** During the negotiation of the FCH JU GA the beneficiaries concerned will present an estimation of their expected personnel costs for the project on the basis of the formula described below. The amount of this flat-rate will appear in the table included in Annex I to the grant agreement, as indicated in Article 5.2.

The FCH JU may verify, at the time of the negotiation of the grant and/or during the implementation or audit of the project, that the beneficiary fulfils the conditions to charge this flat-rate, as well as the correct application of the formula.

When submitting personnel costs in the Form C, beneficiaries will calculate those by applying the hourly rate resulting from the formula to the actual hours worked in the project. The total number of hours claimed for the EU projects in a year cannot be higher than the standard number of productive hours per SME owner/physical person (i.e.:1575). The resulting figure should appear in the form C under the cost category: personnel costs<sup>21</sup>.

### **Retroactive application:**

This form of flat-rate financing shall apply to all grant agreements signed under the FCH JU Programme as well as the Seventh Framework Programme, including those already signed.

As regards ongoing grants, personnel costs submitted prior to the modification of Article II.14.1 of the FCH JU GA by SME owners and natural persons without a salary not having a certificate approved by the Commission empowered by the FCH JU will be considered eligible up to the limit of the applicable flat rate. For future cost statements, these beneficiaries will apply the corresponding flat rate (unless they have a CoMav approved and decide to continue applying it) and declare, where necessary, adjustments to the costs previously reported (i.e. in the case that the costs charged in previous periods are different than those resulting from the application of the flat rate).

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<sup>21</sup> Remark for beneficiaries that also participate in FP7 projects: This is slightly different from the Commission practice where the form C includes a special line for flat rates and lump sums.

For closed grants beneficiaries are not entitled to claim complementary costs (adjustments) for personnel due to the new system of flat-rates, unless there is an audit.

**Calculation of the flat-rate:** The formula indicated in the new Article II.14.1 of the FCH JU GA will apply:

a) *"SME owners who do not receive a salary and other natural persons who do not receive a salary shall charge as personnel costs a flat rate based on the ones used in the People Specific Programme for researchers with full social security coverage, adopted by Council Decision No2006/973/EC22, and specified in the Commission annual Work Programme of the year of the publication of the call to which the proposal has been submitted".*

The value of the personal work of those SME owners and natural persons shall be based on a flat rate to be determined by multiplying the hours worked in the project by the hourly rate to be calculated as follows:

{Annual living allowance corresponding to the appropriate research category published in the 'People' Work Programme of the year of the publication of the call to which the proposal has been submitted / standard number of annual productive hours} multiplied by {country correction coefficient published in the 'People' Work programme of the year of the publication of the call /100}

FP7 'People' Work Programmes can be obtained at the following address:

[http://ec.europa.eu/research/participants/portal/page/fp7\\_documentation](http://ec.europa.eu/research/participants/portal/page/fp7_documentation)

For years 2007-2008-2009 these annual living allowances are published in Annex 3 to the relevant work programme, under the column A (not B) of the table called: **(yearly) reference rates for monthly living allowances**. For the years 2010 and after the same applies, with the particularity that there is a single column (no longer A or B) to be used as reference.

The different amount to be applied depends on the appropriate researcher category, which shall be defined by considering the years of professional experience of the SME owner/natural person. The category of the researcher should be determined in regard of the years of professional experience of the SME owner or natural person. This professional experience does not need to be necessarily linked to the specific area of the research project, nor exclusively related to technical/research activities.

The reference date for the calculation of the numbers of years of experience to be taken into account is the relevant deadline for submission of proposals.

The country correction coefficients are published in the table called "correction coefficients" which appears afterwards in the same document.

In any case the number of hours actually worked for the project should be duly justified by supporting time-records in the same way as for any other type of beneficiary. Further information can be found in the dedicated section in this guide.

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<sup>22</sup> OJ L 400, 30.12.2006, p.272.

In the context of the FP7, the Commission has implemented in the Participant Portal an on-line tool assisting beneficiaries to calculate the applicable rate for each individual case. This tool can be also used by FCH JU beneficiaries as in this aspect the applicable rules are identical.

*b) The standard number of productive hours is equal to 1 575. The total number of hours claimed for European Union projects in a year cannot be higher than this standard number of productive hours per SME owner/natural person.*

This means that, independently from the real number of productive hours of the person concerned, the only figure to be used for this concept (productive hours) is set at 1 575 hours. **This applies only for the calculation of this formula for this special case** of SME owners/natural persons not receiving a salary. In the other cases (declaration of personnel costs on the basis of actual/average costs) the usual rules for productive hours detailed before in this guide apply.

Furthermore, and also **for this special case** of SME owners/natural persons not receiving a salary, the maximum number of hours claimed by the same SME owner/natural person when adding all the hours worked for FCH JU as well as EU projects in the same year cannot be superior to 1575.

*c) The value of the personal work shall be considered as a direct eligible cost of the project"*

This statement means that the flat-rate covers only the direct personnel costs. Therefore, the indirect costs flat rates may be applied on top to cover the indirect costs.

**Reimbursement:** The FCH JU maximum funding rates as detailed in Article 5 of the FCH JU GA apply in order to calculate FCH JU financial contribution.

*Example:*

*SME owner without salary from Austria and applying the 20% flat indirect cost rate with:*

- *4 years of experience at the time of the deadline for the submission of the proposals,*
- *Beneficiary in two Collaborative Projects (A and B) selected in calls published in 2009.*
- *In 2011 this SME owner has worked 800 hours for project A and 800 for project B.*
- *He has also incurred EUR 3,000 in other direct costs for research activities (e.g. travel /accommodation costs) for project A, and equally EUR 4,000 for project B.*

*In 2010, at the **time of the negotiation** of the Grant, the beneficiary will calculate the estimated value of the personal work for the project using the formula detailed above. He (through the coordinator) will indicate this amount in the Annex I to the GA as personnel costs<sup>23</sup> with a line specifying the amount related to the flat rate ( e.g. personnel costs EUR 220,000 of which EUR 67,000 in application of the flat rate for SMEs Owners).*

*At the **end of the first reporting period** (e.g. January 2011 - December 2011) he will apply the formula to the number of actual hours worked for FCH JU projects that year. For this, he/she*

<sup>23</sup> Remark for beneficiaries that also participate in FP7 projects: This is slightly different from the Commission practice where the form C includes a special line for flat rates and lump sums.

will take as reference the relevant figure published in the "People" Work Programme in 2009 for a researcher with 4 years of experience: **54,300 EUR/year.**

**Project A (Collaborative Project): 800 hours worked in 2011:**

$EUR\ 54,300 / 1,575 = 34.476$  multiplied by 102.2 (correction coefficient for Austria) and divided by 100 = 35.234 EUR/hour

Personnel work for Project A in 2011 of this SME owner without salary:

**750 hours worked in RTD activities** multiplied by EUR 35.234 = EUR 26,425.5

**50 hours worked in Management activities** multiplied by EUR 35.234 = EUR 1,761.7

Total direct costs in RTD activities for Project A = EUR 26,425.5 + EUR 3,000 = EUR 29,425.5

Total indirect costs in RTD activities for Project A = EUR 29,425.5 x 20% = EUR 5,885.1

Total costs in RTD activities: EUR 35,310.6

FCH JU funding in RTD activities :

Total direct costs in RTD activities ( EUR 29,425.5) x Funding rate for RTD activities for SMEs + indirect costs in RTD activities( EUR 5,885.1)

Total direct costs in Management activities for Project A = EUR 1,761.7

Total indirect costs in Management activities = EUR 1,761.7 x 20% = EUR 352,34

Total costs in Management activities = EUR 2,114.04

FCH JU funding in Management activities:

Total direct costs in Management activities ( EUR 1,761.7) x funding rate for Management activities + indirect costs in management activities (EUR 352.34)

(TOTAL FCH JU funding in Project A for 2011 = FCH JU funding for RTD + FCH JU funding for management activities.)

**Project B: ( Collaborative project): 800 hours worked in 2011**

The principles are the same BUT as this SME owner has already charged 800 working hours to Project A, it can only charge now in the same year 775 hours to project B to secure consistency with the standard number of productive hours equating to 1575.

**Audit:** as this is a flat rate, in case of audit the elements to be verified will be limited to those which are part of the formula (use of the appropriate living allowance, experience of the SME owner/natural person, country coefficient, etc.) as well as the justification of the hours charged to the project and the respect of the 1575 hours-limit per year.

In case an audit finds out that an SME owner/natural person has unduly charged personnel costs on the basis of actual costs without receiving a salary, those costs will be rejected and the flat-rate system will automatically apply instead. For overstated amounts, Article II.24 of the FCH JU GA applies, and the beneficiary shall be liable to pay liquidated damages on any amount charged over the value provided by the flat-rate system calculation

This flat-rate system will apply to all on-going and future audits in FCH JU projects.

Submission of Certificates:

The submission of a Certificate on Average personnel costs is no longer possible for the cases

of SME owners and natural persons without a salary. Certificates submitted up to 24 February 2012 will be treated and evaluated under the rules in force prior to the decision. All SME owners and natural persons having received the approval of their methodology are entitled either to:

- Continue applying the approved methodology or
- Apply the flat-rate system

However, if the beneficiary chooses to apply the flat-rate system they will have to apply it for all cost statements in ongoing and future participations in FCH JU as well as FP7 projects. It is recommended that beneficiaries in this situation inform the FCH JU and the Commission on their choice via the functional mailboxes:

- *Fch-projects@fch.europa.eu*
- *RTD-FP7-Average-Personnel-Rate-Certification@ec.europa.eu*

## **Article II.14.2 of the FCH JU GA – Costs of third parties – Costs of resources made available and costs of third parties carrying out part of the work**

### **What is a third party?**

A third party is, by definition, any legal entity which does not sign the FCH JU GA. A subcontractor is a type of third party, but not the only one. As the implementation of the project is the responsibility of the beneficiaries (who **do sign** the FCH JU GA), beneficiaries should have the capacity to carry out the work themselves. Therefore the rule is that the costs eligible in a project must be incurred by the beneficiaries, (the signatories to the FCH JU GA).

However, in some circumstances the GA accepts some third parties whose costs may be eligible. Should a beneficiary wish to recur to the assistance of a third party in an ongoing project, this has to be discussed with the Project Officer, and if approved and in conformity with the rules, the third party contribution and resources have to be detailed in Annex I. A third party may contribute to the project in two possible ways:

- making available its resources to a beneficiary (in order for the beneficiary to be able to carry out part of the work) or
- by carrying out part of the work itself.

Costs incurred by third parties may be eligible under certain conditions:

- The third party, the tasks to be performed, an estimation of the costs and the resources allocated to the project by the third party must be identified during the negotiations and mentioned in Annex I to FCH JU GA (and in some cases in special clause 11 in the FCH JU GA).
- In the case of **third parties carrying out part of the work** which are not subcontractors, the beneficiaries will be entitled to charge their costs only in the cases covered by the special clause below (special clause 11 to the GA). It is essential therefore to discuss these cases during the negotiations, and if they are

accepted, to include the special clause in the grant agreement.

In all cases, **the beneficiary retains sole responsibility for the work** of the third party and has to make sure that the third party complies with the provisions of the FCH JU GA.

Also in these cases (third party contributions) it is important to verify whether this contribution falls under the category of receipts (see Article II.17 of the FCH JU GA). These contributions should also comply with the eligibility conditions of Article II.14 of the FCH JU GA.

### **A. THIRD PARTIES MAKING THEIR RESOURCES AVAILABLE TO A BENEFICIARY**

This refers to the case when one or some of the resources used by the beneficiary belong to a third party; in other words, the third party does not carry out any part of the work, it just makes resources available to the beneficiary. These resources are directly used by the beneficiary, and usually work is performed in its premises. The resources made available are under the full and direct control, instructions and management of the beneficiary, who is the one carrying out the research. The third party making available the resources is not involved in the work of the project. Accordingly, when the third party makes available personnel to a beneficiary, the part of the project work carried out by this personnel is attributed to the beneficiary and not to the third party.

The costs of the resources of a third party charged to the project by a beneficiary must be the actual costs incurred by the third party. Average personnel costs may also be charged by the third party in conformity with Article II.14.1 of the GA and related explanations in this guide. The use of flat rates (whether it concerns indirect costs or SME-owners and natural persons which do not receive a salary) by the third party is not allowed, even if that third party, when acting as a beneficiary in another GA, has opted for a flat rate.

In all cases the contributions made available to a beneficiary must be charged in the form C of the beneficiary, under its direct costs.

- **Free of charge (there is no reimbursement by the beneficiary to the third party)**

This is the case where a third party makes available some of its resources to a beneficiary, which does not reimburse the cost to the third party, but which charges the costs of the third party as an eligible cost of the project. Its costs will be declared by the beneficiary in its Form C, included in the CFS of the beneficiary when required (as a cost and, if that is the case, as a receipt<sup>24</sup>) **but must be recorded in the accounts of the third party** (which can be audited if required). The need for the costs to be accurately recorded in the accounts of the third party comes from the fact that such costs are not present in the accounts of the beneficiary (because they are free of charge). For the costs incurred by the third party only the real overheads of the third party can be charged, if justified. The beneficiary cannot charge a flat rate for the

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<sup>24</sup> See example of receipts under Art.II.17

indirect costs incurred by the third party in the third party premises. It cannot charge either the flat rate for SME-owners or natural persons which do not receive a salary from this third party. However if these resources (e.g. seconded staff) carry out the work in the premises of the beneficiary, then the usual overheads of the beneficiaries apply also to them (including the flat rate for indirect costs of the beneficiary).

It is important to remember that this covers only the case of a third party making some of its resources available to a beneficiary. It does not concern those third parties carrying out part of the work themselves, which is discussed below under point B.

*Example:*

*Researcher from one organisation seconded to work in another Research organisation or in a university. In this case where the seconded personnel does not work in the premises of the beneficiary, no overheads can be charged on the corresponding cost of personnel by the beneficiary.*

▪ **Beneficiary reimburses the third party**

This is not considered a third party contribution as in this case the reimbursement of the third party for these costs will be a cost for the beneficiary, who in turn will be able to claim it as an eligible cost. By definition then, these costs will appear in the accounts of the beneficiary, and therefore they will be considered as costs incurred by the beneficiary and not as costs incurred by a third party. In these cases, there is a prior agreement that defines the frame in which these resources are made available and the reimbursement to the third party covers only costs, and there will not be a profit for the third party. In any case, the details and the reasons for it must be indicated in Annex I to the FCH JU GA.

It is important to recall that the FCH JU has the right to audit the (underlying) costs originating from the third parties, also in this case.

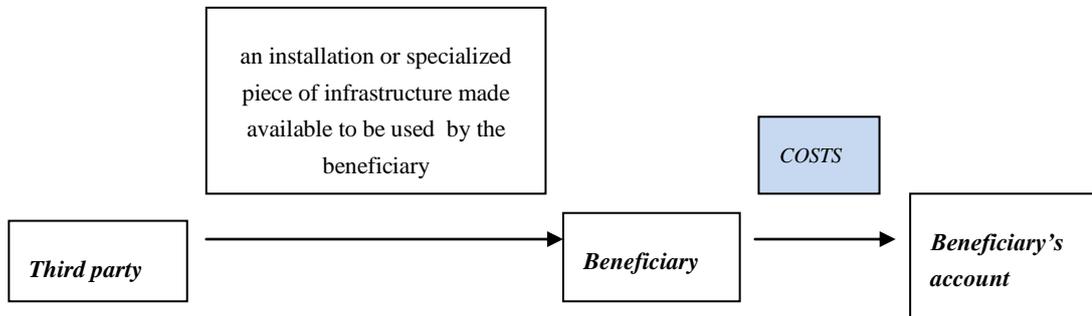
Here it is also important to remember that this covers only the case of a third party making some of its resources available to a beneficiary, not the case where the third party carries out part of the work.

Like any other cost, these costs must comply with the conditions of Article II.14 of the FCH JU GA.

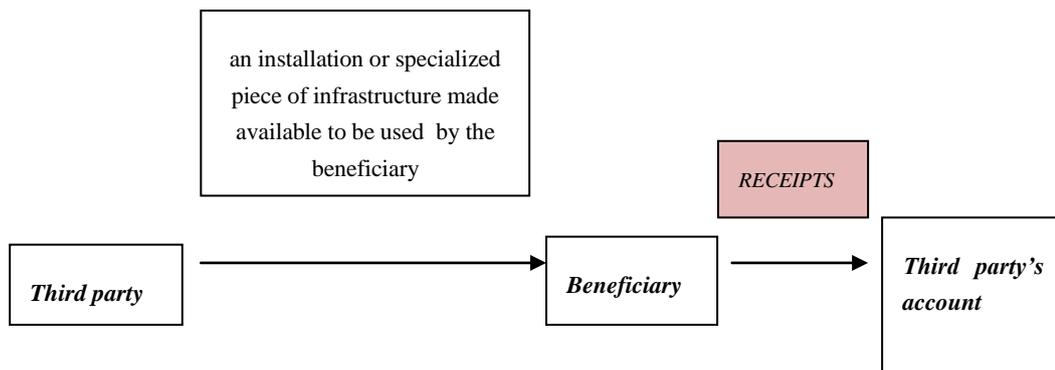
*Example:*

*A: A legal entity makes available to a beneficiary the use of an installation or specialised piece of infrastructure which the beneficiary needs in order to perform a project task. There are two possibilities here:*

*The third party charges the costs and is reimbursed by the beneficiary. This is a cost for the beneficiary and not considered as a reimbursement of a third party cost. Details and the reason for the use of the third party must appear in Annex I to FCH JU GA*



*B: The third party does not charge the beneficiary for this activity; it is not reimbursed by it. If the beneficiary wants to include the cost of the third party as an eligible cost of the project, then the conditions mentioned above for "free of charge" contributions apply. Therefore, the third party, the work, an estimation of the costs and the resources used must appear in Annex I to the FCH JU GA.*



### Special cases:

- 1) *Foundations, spin-off companies, etc., created in order to manage the administrative tasks of the beneficiary*

This is typically the case of a legal entity created or controlled by a beneficiary which is in charge of the financial administration of the beneficiary, but which does not perform scientific/technical work in the project (differently from the entities covered by special clause 11); this beneficiary (usually public bodies like Universities/Ministries) have a prior agreement with a spin-off company or a separate company/non-profit foundation, by means of which the latter handles the financial and administrative aspects of the beneficiaries' involvement in research projects, including all issues relating to the

employment and payment of additional personnel, purchase of equipment and consumables, etc. In most of these cases, the aim to improve and rationalise administrative and financial management has led the Universities/Ministries to establish such contracts, which are usually agreements lasting over long periods and established well before the FCH JU project exists. Consequently, this third party often has no resources of its own. The personnel hired for the project by the spin-off/foundation works on the premises of the University (beneficiary) and under its responsibility. In this case it is the university which should be the beneficiary, and not the foundation, as the foundation does not have the resources to carry out the work<sup>25</sup>.

As in the other cases of third parties' contributions, the third party and the tasks have to be identified in Annex I to FCH JU GA.

The agreement is not specific to the project, but it is a general agreement for the management of the FCH JU GA with the FCH JU (and/or other entities), and the costs are reimbursed either directly by the beneficiary or by the coordinator on behalf of the beneficiary. The costs will therefore not be considered as receipts.

In some cases the agreement between the beneficiary and the third party also foresees the handling of FCH JU financial payments by the third party. Therefore, the coordinator pays the FCH JU contribution directly to the third party and not to the beneficiary. As a consequence, in the accounts of the beneficiary there is no trace of any reimbursement from the beneficiary to the third party. In these cases, the important issue is that even though there is no transfer between the beneficiary and the third party, the work of the third party is not carried out without reimbursement, and there is a reimbursement of costs but directly from the coordinator. Thus, the costs will not be considered as receipts. Here the costs of the third party will be charged by the beneficiary in its Form C, but they are recorded in the accounts of the third party (otherwise they would not be eligible). As these resources are used in the premises of the beneficiary, if the beneficiary is using a flat rate for the calculation of the indirect costs, then the flat rate can be applied to these costs. All reports, financial statements, etc., must be presented in the name of the beneficiary. If a CFS is required, it must certify and cover both the contributions of the beneficiary and those of the third party. For the costs incurred by the third party and used in its premises, only the real overheads of the third party must be charged. The flat rate of the beneficiary DOES NOT apply to these costs since they are not used in the premises of the beneficiary.

*Example:*

*Eligible Costs of a University which can opt for the 20% flat rate for indirect costs and is a beneficiary in a FCH JU project (only in research activities):*

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<sup>25</sup> If the third party fulfils the conditions set below in point B for the introduction of special clause 11, it may happen also that it carries out itself part of the activities attributed to the beneficiary. In this case, there should be a clear distinction between the contributions made available to the beneficiary, which should be charged under the costs and in the form C of the beneficiary, and be detailed as such in Annex I, and the work carried out directly by the third party according to clause 11, which the third party should charge as its own costs under its own form C;

<i>Costs of personnel (usually permanent) paid by the university:</i>	<i>EUR 100,000</i>
<i>Costs of personnel paid by the foundation and working in the premises of the university:</i>	<i>EUR 80,000</i>
<i>Equipment bought by the foundation used on the premises of the beneficiary:</i>	<i>EUR 20,000</i>
<i>Costs of administrative personnel of the foundation working in the premises of the foundation:</i>	<i>EUR 2,300 (actual costs, including EUR 2,000 for direct and EUR 300 for indirect costs)</i>
<i>Total costs declared by the university=</i>	
<b>Total direct costs (including those of the foundation)</b>	
<i>= (EUR 100,000 + EUR 80,000 + EUR 20,000 + EUR 2,000)=</i>	<i>EUR 202,000</i>
<b>Indirect costs</b> <i>= calculated on the basis of the direct costs used in the premises of the university + real indirect costs of the foundation: flat rate of 20% of EUR 200,000 = 40,000 +300<sup>26</sup></i>	<i>EUR 40,300</i>
<b>Total eligible costs</b> <i>= EUR 202,000+EUR 40,000+300=</i>	<i>EUR 242,300</i>
<i>Total FCH JU funding received by the University = 60%<sup>27</sup> x EUR 202,000 + EUR 40,300 = EUR 161,500</i>	

2) *The case of resources (professors/equipment) working for, or used by a university but whose salaries/costs are paid by the Government.*

In this case the resources made available by the third party (the Government) to the beneficiary can be assimilated to the "own resources" of the beneficiary, and can therefore be charged to the project without being considered a receipt. The reason is that the beneficiary is free to use these resources at will. Like other contributions from third parties, these resources must be identified in Annex I to FCH JU GA. Their cost will be declared by the beneficiary in its own Form C, and they must be recorded in the accounts of the third party and available for auditing if required. This does not apply to cases where these resources/staff have been specifically seconded to the beneficiary in order to work in a specific project. In this case the costs are eligible but the rules for receipts apply.

*Specific "ad-hoc" agreement between a beneficiary and a third party to cooperate in a project.*

<sup>26</sup> FCH JU reimbursement of indirect costs cannot exceed 20% of actual direct cost excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries. In this case EUR 300 = 15% of EUR 2,000

<sup>27</sup> The given example applies hypothetical percentage. Funding rates are indicated in Art.5 and may vary from one call to another.

*Example:* the use of an installation or the secondment to a beneficiary of a professor from another entity which is not a beneficiary. In this case, if the third party is not working on the project and only lending resources, the general rules for third parties making available resources may apply. **If on the other hand the third party not only makes resources available but also carries out work**, then the third party should sign the GA and become a beneficiary; under certain conditions this kind of agreement might be treated in FCH JU projects as a subcontract, and must then follow the related rules.

3) *The case of an "interim" or temporary work agency that makes available staff to a beneficiary: this is not a third party contribution because the beneficiary pays the agency for the use of those resources. That use has a price charged to the beneficiary, who will declare it according to its usual accounting practices.*

## **B. THIRD PARTIES CARRYING OUT PART OF THE WORK**

Exceptionally here the third party performs itself certain tasks of the project, even if it does not sign the FCH JU GA. The third party **carries out part of the work directly** and is responsible for this vis-à-vis the beneficiary, (although the beneficiary remains responsible vis-à-vis the FCH JU for the work). The work is in this case attributed to the third party and is usually carried out in the premises of the third party. The resources made available are under the full and direct control, instructions and management of the third party, who carries out this part of the research. Two different cases may appear:

- **The case of subcontractors:** the costs of the subcontract are part of the direct costs of the beneficiary and are registered in the accounts of the beneficiaries. The price of the subcontract is an eligible cost for the beneficiary, which like other costs must comply with the general eligibility criteria mentioned in Article II.14 of FCH JU GA. **The specific conditions of subcontracting are explained in Article II.7 of FCH JU GA, which describes this case extensively.**
- The case of entities covered by special clause 11: Only in the cases mentioned in the clause, may other third parties carry out (under certain conditions) part of the work for a beneficiary. For this to be possible, they have to be identified in the FCH JU GA via a special clause. It is essential to identify these cases during the negotiations in order to add the special clause to allow for the reimbursement of the third parties' costs. Apart from subcontractors, (which follow their own rules as explained in Article II.7 of FCH JU GA) only third parties covered by the clause are entitled to carry out work in the project and to charge costs for it. When special clause 11 is used the beneficiary usually is leading and/or coordinating the research work.

***Who are the third parties (other than subcontractors) who can carry out work under the project if covered by the relevant special clause in the FCH JU GA?***

The FCH JU GA (via Special Clause no 11 to be included in Article 7) refers to third parties linked to a beneficiary. The term "linked" refers to an established formal relationship between a third party and the beneficiary, defined by the following characteristics:

- This relationship by nature is broad and is not limited to the FCH JU GA, or specifically created for the work in the FCH JU GA.
- Accordingly, its duration goes beyond the duration of the project and usually pre-dates and outlasts the FCH JU GA.
- It has a formal external recognition, sometimes in the framework of a legal structure (for example, the relationship between an association and its members), sometimes in the absence of legal personality, through the sharing of common infrastructures and resources (joint laboratory), separate from those of the legal entities composing them, or common ownership (affiliates, holding companies).

"Ad hoc" collaboration agreements between legal entities to carry out work in the project are therefore not covered by this clause; in these cases both legal entities should be beneficiaries (with the limited exception of subcontracting in the cases where the rules allow it, as mentioned above).

### Cases specifically covered by the Special clause 11:

- **Joint Research Units (JRU):** these are research laboratories/infrastructures created and owned by two or more different legal entities in order to carry out research. They do not have a legal personality different from that of its members, but form a single research unit where staff and resources from the different members are put together to the benefit of all. Though lacking legal personality, they exist physically, with premises, equipment, and resources individual to them and distinct from "owner" entities. A member of the JRU is the beneficiary and any other member of the JRU contributing to the project and who is not a beneficiary of the GA has to be identified in the clause. The JRU has to meet all the following conditions:
  - ✓ scientific and economic unity
  - ✓ last a certain length of time
  - ✓ recognised by a public authority.

It is necessary that the JRU itself is recognised by a public authority, i.e. an entity identified as such under the relevant national law. The beneficiary concerned shall provide to the FCH JU during the negotiation, a copy of the resolution, law, decree, decision, attesting the relationship between the beneficiary and the third party(ies), or a copy of the document establishing the "joint research unit", or any alternative document proving that research facilities are put in a common structure, and correspond to the concept of scientific and economic unit.

- **European Economic Interest Grouping (EEIG):** an EEIG is a legal entity created under the rules of Council Regulation (EEC) No 2137/85 of 25 July 1985, composed of at least two legal entities from different Member States. In this case the EEIG is the beneficiary and its composing legal entities may be members included in the Special clause 11. The contrary (i.e. composing legal entity as beneficiary and EEIG as member in the clause) is not possible.
- **Affiliates:** an affiliated entity means any legal entity that is under the direct or indirect control of the beneficiary, or under the same direct or indirect control as the beneficiary. Therefore it covers not only the case of parent companies or

holdings and their affiliates and vice-versa, but also the case of affiliates between themselves. However, the entity performing most of the work should be the one appearing as beneficiary, and the others as the members detailed in the clause.

- **Groupings:** The clause is used here either for associations, federations, or other legal entities composed of members (in this case, the Grouping is the beneficiary and the members contributing to the project should be listed). In the case of groupings without legal personality they will be treated as JRU if they meet the conditions mentioned above for Joint Research Units. Therefore structures, agreements or units without legal personality created specifically by different legal entities for their participation in the FCH JU GA are not considered groupings and their costs are not covered under the terms of this special clause. As for EEIGs, it is the association, federation, etc which should appear as the beneficiary in the GA.

### **Which conditions have to be fulfilled by these third parties in order to carry out work and charge costs under the project?**

They have to be identified in special clause No 11 and their name, tasks and resources have to be described in Annex I at the same level of detail as beneficiaries, since these third parties submit their own Form C.

Their costs have to comply with the rules and the principles mentioned in Article II.14 -> II.17 of FCH JU GA, in the same way as the beneficiaries, and must be recorded in their accounts. In other words, the rules relating to eligibility of costs, identification and calculation of direct and indirect costs and rates of reimbursements apply. Equally those concerning controls and audits of Article II.22 and Article II.23 of FCH JU GA.

Each third party fills in its costs in an individual Form C and, where necessary, shall provide its individual certificate on financial statements and/ or on the methodology independently from those of the beneficiary. The beneficiary will submit both forms and a summary report integrating both the costs of the beneficiary and those of the third party(ies).

The thresholds<sup>28</sup> for the submission of a certificate on the financial statements (CFS) apply to each third party independently of the FCH JU contribution of the beneficiary. The submission procedure and rules are the same as for beneficiaries (see II.4.4 of this guide).

*Example<sup>29</sup>:*

**University "X" has created a joint research unit with university "Y".**  
*University "X" is a beneficiary in the FCH JU GA, and performs the work via the joint research unit co-owned with "Y". Therefore, "Y" is here the third party linked to "X".*

<sup>28</sup> A CFS is mandatory for any claims of final payments submitted by each beneficiary whose total FCH JU financial contribution, claimed in the form of reimbursement of costs, exceeds 50,000 EUR, and for claims of interim payments when the amount of the FCH JU financial contribution claimed by a beneficiary under the form of reimbursement of costs is equal to or superior to EUR 325,000, when cumulated with all previous payments for which a certificate on the financial statements has not been submitted

<sup>29</sup> The given example applies hypothetical percentage. Funding rates are indicated in Art.5 of the FCH JU GA and may vary from one call to another.

"X" has an analytical accounting system allowing it to declare its actual costs (both direct and indirect). It fills in Form C with its own costs only:

EUR 100,000 as **direct costs** and

EUR 80,000 as **indirect costs**

Subcontracting: EUR 0,00

"Y", as a third party linked to "X", carries out part of the work attributed by the FCH JU GA to "X". However, as it is unable to identify with certainty its actual indirect costs, it uses the flat rate of 20% for indirect costs. It fills in Form C with its own costs only:

EUR 100,000 as **direct costs** and

EUR 20,000 as **indirect costs**

Subcontracting: EUR 0,00

The financial report presented by "X" (the beneficiary) will include both Forms C, and a summary financial report adding up costs from "X" + "Y"; the costs and funding claimed will be calculated as follows (for the sake of simplicity, only RTD costs are included here)

Eligible costs for University "X": **Funding for "X":**

EUR 180,000

Reimbursement<sup>(\*)</sup> of direct costs: 60%<sup>30</sup> of EUR 100,000 = EUR 60,000

Reimbursement of indirect costs: direct cost<sup>(\*\*)</sup> x max of 20% = EUR 100,000 x 20% = EUR 20,000

TOTAL: EUR 60,000 + EUR 20,000 = EUR 80,000

Eligible costs for University "Y": **Funding for "Y":**

EUR 120,000

Reimbursement<sup>(\*)</sup> of direct costs: 60% of EUR 100,000 = EUR 60,000

Reimbursement of indirect costs: direct costs<sup>(\*\*)</sup> x flat rate of 20 % = EUR 100,000 x 20 % = EUR 20,000

TOTAL: EUR 60,000 + EUR 20,000 = EUR 80,000

TOTAL COSTS declared by "X": EUR 300,000 (180,000 + 120,000)

TOTAL FCH JU contribution claimed by "X": EUR 160,000

<sup>(\*\*)</sup> excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries

Finally, if the third party identified in clause 11 makes also resources available to the beneficiary free of charge, the costs incurred by the third party lending resources might be charged by the beneficiary and be included in the CFS. These costs will be considered receipts if the conditions of Article II.17 are fulfilled.

## Article II.14.3 of FCH JU GA – Non-eligible costs

Certain costs are, specifically excluded from the eligible costs. The list of these costs mentioned in the grant agreement must be regarded as a minimum reference list and must be fully complied with.

The standard model provides that the following costs are **not eligible**:

- identifiable indirect taxes including value added tax

In general, the beneficiary is entitled to charge to the project only the net value of the invoice, provided that all eligibility criteria are met. Identifiable VAT is not eligible. As mentioned above, indirect taxes' will be allowed when not identifiable. This may be for example the case with foreign invoices where the price indicated is gross without identifying the tax. In any case, the beneficiary must be able to justify this in the event of an audit.

### The particular case of airport taxes

In general, airport taxes are not real taxes in the sense of tax law but a fee for a service delivered by a public or semi-public body in charge of a (public) service, such as airports (independent of the fact that that some airports might have a private legal form). In this case the airport taxes imposed by these authorities may be considered a fee and therefore eligible because they are neither a duty nor an indirect tax. Usually the invoice makes reference to "service charge", "charge" etc. If the invoice, however, only mentions "airport taxes", the beneficiary should use other means to prove that the so called "airport tax" is not a tax. As a conclusion, it can be said that when airport taxes are not identifiable, they are eligible, but when airport taxes are identifiable, the nature of the tax has to be examined according to the point above.

*Examples:*

*Fuel surcharge, insurance surcharge, etc. are eligible costs;  
Air passenger duty is not an eligible cost (see below)*

- duties: mean the amount assessed on an imported or (less often) exported item, nearly equivalent to taxes, embracing all taxation or charges levied on persons or things [or the tax imposed on the importation, exportation, or consumption of goods],
- interest owed,
- provisions for possible future losses or charges,
- exchange losses, cost related to return on capital,

*Example:*

*Cost related to return on capital e.g. if there are dividends paid as remuneration for the work in the project.*

- costs declared or incurred, or reimbursed in respect of another FCH JU or EU/Euratom *project*, (avoiding double funding ),
- debt and debt service charges, excessive or reckless expenditure: Excessive must be understood as paying significantly more for products, services or personnel than the prevailing market rates, resulting in an avoidable financial loss to the project. Reckless means failing to exercise care in the selection of products, services or personnel resulting in an avoidable financial loss to the project.

***Non exhaustive list of taxes and personnel charges whose eligibility has been examined under FCH JU as well as FP7 rules:***

A certain number of taxes and their eligibility have been examined under FCH JU as well as FP7 criteria.

A non-exhaustive list can be found on the FCH JU website:

<http://www.fch-ju.eu/content/how-participate-fch-ju-projects>

**Article II.15 of FCH JU GA – Identification of direct and indirect costs and Art. II.16 of FCH JU GA – Upper funding limits**

This chapter is structured as follows:

1. Direct costs
  - A. Notion and Identification
  - B. Reimbursement
2. Indirect costs
  - A. Notion
  - B. Identification
  - C. Reimbursement

The table below gives a summary of identification and reimbursement of direct and indirect costs:

	<b>Direct costs</b>	<b>Indirect Costs</b>
<b>Identification</b>	eligible costs attributed directly to the project	- actual
		- actual – simplified method
		- flat rate of 20%

<b>Reimbursement</b>	direct costs x funding rate <sup>31</sup>	If identification method is actual indirect cost or actual / simplified method
		- and if Collaborative Projects, then actual indirect cost with max. of 20 % of direct costs <sup>(*)</sup>
		- and if Coordination and Support Actions, then actual indirect costs with a max. of 7 % of direct costs <sup>(*)</sup>
		If identification method is flat rate:
		- and if Collaborative Projects, then 20% of direct costs <sup>(*)</sup>
		- and if Coordination and Support Actions, then a max. of 7 % of direct costs <sup>(*)</sup> (Exception! call 2008: 20%)

<sup>(\*)</sup> excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries

The reimbursement of beneficiaries shall be based on their eligible direct and indirect costs.

Depending on the characteristics of the operation in question, it is possible that some costs can be considered either direct costs or indirect costs, but no cost can be taken into account twice as a direct cost and an indirect cost.

*Example 1<sup>32</sup>:*

*Collaborative Project with RTD & Management activities only carried by large industry*

*TOTAL accepted direct RTD costs of the project (at the end of the project): EUR 205,000*

*TOTAL accepted indirect RTD costs of the project: EUR 30,000*

*TOTAL accepted direct management costs of the project: EUR 15,000*

*TOTAL accepted indirect management costs of the project: EUR 2,000*

***TOTAL accepted direct costs of the project: EUR 220,000***

***TOTAL accepted indirect costs of the project: EUR 32,000***

*TOTAL accepted costs of the project: EUR 252,000*

*Maximum FCH JU Financial contribution indicated in Article 5 of FCH JU GA:*

*EUR 120,000*

***Reimbursement of direct costs:***

<sup>31</sup> Funding rates as indicated in Art.5 of FCH JU GA

<sup>32</sup> The given example applies hypothetical percentages. Funding rates are indicated in Art.5 of the FCH JU GA and may vary from one call to another.

*Funding rate for RTD activities 40%, therefore EUR 82,000  
Funding rate for the Management activities 80%, therefore EUR 12,000*

***Reimbursement of indirect costs:***

*Method: actual indirect cost ( max. 20% of direct costs<sup>(\*)</sup>)*

*EUR 30,000 + EUR 2,000 = EUR 32,000*

*Calculated FCH JU reimbursement: EUR 126,000*

*However FCH JU funding for the project is limited to EUR 120,000 to respect the maximum FCH JU contribution fixed in Article 5 of FCH JU GA.*

*(\*) excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries*

## **1. Direct costs**

### **A. Notion and identification of direct costs**

Direct costs are all those eligible costs which can be attributed directly to the project and are identified by the beneficiary as such, in accordance with its accounting principles and its usual internal rules.

The following direct costs may be considered eligible (this list is not exhaustive):

#### *(a) The cost of personnel assigned to the project*

- The personnel must be directly hired by the beneficiary in accordance with its national legislation.
- The personnel must work under the sole technical supervision and responsibility of the beneficiary.
- As there is no distinction between cost models, any beneficiary may include in its personnel costs "permanent employees", who have permanent working contracts with the beneficiary or "temporary employees", who have temporary working contracts with the beneficiary.
- Personnel costs should reflect the total remuneration: salaries plus social security charges (holiday pay, pension contribution, health insurance, etc.) and other statutory costs included in the remuneration.
- Personnel must be remunerated in accordance with the normal practices of the beneficiary.

Only the costs of the actual hours worked by the persons directly carrying out work under the project may be charged. **Working time is the total number of hours, excluding holidays, personal time, sick leave, or other allowances.**

#### *(a.1) Time recording system: general conditions*

Only the hours worked on the project can be charged. Working time to be charged must be recorded throughout the duration of the project by **timesheets**, adequately supported by evidence of their reality and reliability. In the absence of timesheets, the beneficiary must substantiate the cost claimed by reasonable means (**alternative evidence**) giving an equivalent level of assurance, to be assessed by the auditor. Employees have to record their time on a daily, weekly, or monthly basis using a paper or a computer-based system. The time-records have to be authorised by the project manager or other superior. Where it is the usual practice of the beneficiary to consider certain types of personnel (such as administrative or support personnel) as indirect costs, the costs of this personnel cannot be charged as direct eligible costs, but only as indirect costs.

If you decide to use timesheets to record working hours then they must meet at least the basic requirements indicated below:

- full name of beneficiary as indicated in the FCH JU GA;
- full name and signature of the employee directly contributing to RTD project;
- title of RTD project as indicated in the FCH JU GA;
- project account number must be indicated;
- periodicity of filling in (for instance on daily, weekly, monthly basis) according to the beneficiary's normal practice;
- amount of hours claimed on the RTD project. All hours claimed must be able to be verified in a reliable manner;
- full name and a signature of a supervisor (person in charge of the project).
- the timesheets must be reconcilable with the absences for holidays, illness, travels or others.

It is also highly advisable that the time recording system meet the following additional criteria:

- the time records disclose the hours worked on a daily basis;
- a reference to the tasks or WP included in the Description of Work, allowing an easy reconciliation of the work done with the work assigned; a reference to the type of activity (RTD, management, other) to which the work has been attributed;
- a description of the actions carried out by the staff, allowing to understand the work done and substantiate it, in particular in the case of a technical audit.

In cases where personnel work on several projects during the same period the time recording system must enable complete reconciliation of total hours per person, listing all activities (EU projects, internally funded research, administration, absences etc.). It is important to remember that an effective time-recording system (a system which certifies the reality of the hours worked) is a requisite for the eligibility of the costs. A contract, as a document signed before the work is actually performed, would not be sufficient.

It is worth mentioning that the above elements are the basic ones, thus there are no obstacles to running the timesheets in a more detailed way.

(a.2) *Time recording system: specificities in the case of a Certificate on the Methodology*

- In the context of the Certification on the Methodology covering both personnel and indirect costs (CoM), *optional* for beneficiaries of multiple grants, the minimum requirement is a **full time-recording per person** listing all activities (research, administrative, absence, FCH JU projects, non FCH JU projects) for all personnel involved in FCH JU projects. A model of such a timesheet is available below. This requirement is motivated by the fact that the CoM provides the beneficiary with a label of excellence and the benefit of a waiver on the submission of interim CFS (certificate on financial statements).
- In the context of the Certification on the Methodology for average personnel costs (CoMAv), *optional* for beneficiaries wishing to declare average personnel costs, full time-recording per person is highly recommended but not absolutely required to be certified ex-ante provided that all other conditions for the approval of the methodology are fulfilled and that the number of productive hours used to calculate hourly personnel rates is a reasonable standard or an average close to the normal benchmark (e.g. 1680 hours based on 210 workable days and a 8 hour working day). Since an effective time-recording system (a system which certifies the reality of the hours worked) is a requisite for the eligibility of costs, a reliable FCH JU project-based time-recording system including time records duly authorised by the project manager or other superior and enabling reconciliation of total hours worked on several FCH JU projects during a given period would be considered as a minimum requirement for the CoMAv.

Please find below an example of time-sheet fulfilling the requirements for the certification of the methodology

*Example of a time-sheet template which may be of use*

Person : Prof Number of hours envisaged i.e. according to the employment contract: 20 hours/week

2008 January

Indicate the time in hours													Only the yellow cells are writeable																				
Date	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total	
Day	Sun	Mo	Tue	Wed	Thu	Fr	Sat	Sun	Sun	Mo	Tue	Wed	Thu	Fr	Sat	Sun	Sun	Mo	Tue	Wed	Thu	Fr	Sat	Sun	Sun	Mo	Tue	Wed	Thu	Fr	Sat		
<b>FCH JU-Projects</b>																																	
R&D Activities																																	
Project x		3	4	7	8									3,5			3	2	8	9	4									7	58,5		
Project y		5	5			5,5																										15,5	
Project z																																0	
Total RTD	0	8	9	7	8	5,5	0	0	0	0	0	0	0	3,5	0	0	3	2	8	9	4	0	0	0	0	0	0	0	0	0	7	74	
Demonstration																																	
Project x																																0	
Project y																																0	
Project z																																0	
Total Demonstration	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Management																																	
Project x												8	3,5				5				1											17,5	
Project y																																0	
Project z																																0	
Total management	0	0	0	0	0	0	0	0	0	0	0	0	8	3,5	0	0	0	5	0	0	1	0	0	0	0	0	0	0	0	0	0	17,5	
Other Activities																																	
Project x							3	0								5																8	
Project y																																0	
Project z																																0	
Total Other	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8	
<b>Internal and National Projects</b>																																	
Teaching						2,5											6	1			3											12,5	
B																																0	
C																																0	
Total	0	0	0	0	0	2,5	0	0	0	0	0	0	0	0	0	0	6	1	0	0	3	0	0	0	0	0	0	0	0	0	0	12,5	
<b>Absences</b>																																	
Annual Leave																									8	8	8	8				32	
Special Leave																																0	
Illness										8	8	8																				24	
Total Absences	0	0	0	0	0	0	0	0	0	8	8	8	0	0	0	0	0	0	0	0	0	0	0	0	8	8	8	8	0	0	0	56	
Total productive hours		8	9	7	8	8	3	0	0	0	0	0	8	7	0	5	9	8	8	9	8	0	0	0	0	0	0	0	0	0	7	112	
Total hours																																	168

Signed

Approved

Productive hours per project

Project X 84  
Project Y 15,5  
Project Z 0

*(a.3) Working hours and productive hours*

A simple estimation of hours worked is not sufficient. Productive hours must be calculated according to the beneficiary's normal practices.

The annual number of productive hours can be calculated in two ways depending on the beneficiary usual accounting practice:

- by using a **standard number** of productive hours used for all employees;
- by calculating an **actual individual number** of productive hours for each employee.

The first option, the use of the standard number of productive hours, is the most efficient one. The use of actual productive hours per employee to compute the hourly personnel rate is the most precise. In general, the actual productive hours should be close to the standard productive hours. In addition, the time recording system of the beneficiary must allow keeping track of this number of actual individual number of productive hours.

Productive hours per year should exclude annual leave, public holidays, training (if not project related) and sick leave. A figure of 210 working days- year could be considered representative in most cases

*For example:*

<i>Total days in a year</i>	<i>365</i>
<i>Weekends</i>	<i>-104</i>
<i>Annual holidays</i>	<i>-21</i>
<i>Statutory holidays</i>	<i>-15</i>
<i>Illness/Others</i>	<i>-15</i>

***Workable days in a year***                      ***210***

The above will vary depending on the personnel category, industry sector, unions, contracts and national legislation which must all be taken into account.

Some beneficiaries use the (much lower) number of "billable" hours instead of the number of productive hours, with a higher hourly rate as a result. This is not acceptable.

**Productive hours are not the same concept as "billable" hours.**

Productive hours include all working activities of the personnel of the beneficiary; they include also activities such as:

- Sales and Marketing
- Preparation of proposals
- Administrative time
- "Unsold time"/ "non billable" hours
- Non-project related, general research activities
- In the case of universities or similar bodies: teaching, training or similar hours.

This time is considered productive and usually would not be recovered via the indirect costs. If an employee of a beneficiary is working directly in a project and the beneficiary is charging the employee's time as a direct cost, it could only charge also part of the employee's time as indirect costs if the beneficiary can prove that these indirect costs are linked to the project and are eligible. In this case:

- the beneficiary's accounting system must be able to exclude from the overheads charged any ineligible costs according to the FCH JU GA (art. II.14);
- the overheads charged must exclude costs already charged to the project as direct costs.

**Some activities may be considered not to be part of the productive hours of personnel:**

- General training (not project related<sup>33</sup>);
- General internal meetings (not project related<sup>34</sup>).

These activities together with the sickness days should not exceed 15 days a year (unless duly justified). The beneficiary must substantiate these hours/days. In addition, this calculation must be consistent with the internal regulations and/or practice of the organisation (e.g. minimum number of training days specified in the organisation's HR policy) and/or the time recording system of the beneficiary. (e.g. if internal meetings hours are deducted from the productive hours, the time recording system must keep track of the hours spent on meetings).

Productive hours have to be clearly justified and must match the underlying time records. If hours actually spent in productive tasks (as supported by time records) exceed the standard productive hours, the first shall be used for the calculation of the personnel costs,

The beneficiary cannot claim more hours than the ones he used for the computation of the personnel hourly rates. Otherwise, it would charge more than its actual personnel costs.

**If the beneficiary uses the standard productive hours, it cannot claim more hours than the standard productive hours, even if the actual time spent exceeds them.**

**If the beneficiary uses the actual productive hours, it cannot claim more hours than the individual actual productive hours.**

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<sup>33</sup> Time spent on general training activities and/or general internal meetings can be deducted to arrive at the number of productive hours. Specific training activities and internal meetings which can be directly allocated to the project are part of the productive hours.

<sup>34</sup> Time spent on general training activities and/or general internal meetings can be deducted to arrive at the number of productive hours. Specific training activities and internal meetings which can be directly allocated to the project are part of the productive hours.

*Example:*

<i>Total productive hours= 210 X 7,5 hours=</i>	<i>1575 hours</i>
<i>Total Salary (statutory costs, including holiday pay, etc.):</i>	<i>30,000 Euro/year</i>
<i>Hourly rate= 30,000/1575=</i>	<i>19 Euro/hour</i>
<i>Total hours worked for the project=</i>	<i>650</i>
<i>Total costs charged to the project= 650 x 19=</i>	<i>12,350 Euro</i>
<i>The productive hours have to be clearly justified and must match the underlying time recording system</i>	

*(a.4) Particular cases:*

- "Teleworking": may be accepted provided teleworking is a usual practice of the beneficiary (such an opportunity should be offered to the personnel of the organisation as a whole regardless the employment status -employees and in-house consultants- and clear rules should be available for the purpose of an audit). Further, there must be a system that allows both to identify and to record the productive hours worked for the project.
- Overtime: may be accepted provided that:
  - ➔ it is actually paid,
  - ➔ it is necessary to the project and in conformity with the beneficiary's national legislation,
  - ➔ it is the policy of the beneficiary to pay overtime.

Only the hours worked on the project can be charged and the hourly rate applicable to them is calculated according to the following:

- if there is a system that allows the identification of the normal and overtime hours worked for the project, the hourly rate applicable to the overtime hours has to be calculated separately from the hourly rate applicable to the normal working hours.

- in any other case (either overtime not paid or no system in place that allows the distinction between normal/overtime hours), the hourly rate is calculated taking together both normal/overtime costs and normal/overtime hours worked.

- Sick leave: cannot be included in the working time.
- Parental leave of personnel assigned to the action: the amount of this allowance may be an eligible cost under certain conditions, in proportion to the time dedicated to the project. Beneficiaries who deduct time for parental leave from the standard annual productive time are already compensated for such costs and therefore are not allowed to charge costs related to individual employees' parental leave to the specific RTD project. Beneficiaries who do not deduct time for parental leave from the standard annual productive time may charge such costs in proportion to the time dedicated to the project provided that they are mandatory

under national law (e.g. *statutory maternity pay*), that the beneficiary has effectively incurred such costs, and that they are not compensated by the national or regional authorities. Only costs related to personnel who worked on the project before the parental leave may be eligible.

- Costs for the advertising to recruit a new person are not eligible but, if it is necessary for the project to replace the person, the costs of the new person will be eligible under the normal requirements.
- Bank charges: The general eligibility of bank charges depends on their nature. For example, debit service charges are not eligible (see Article II.14.3.g of the FCH JU GA) but charges relating to transfers may constitute eligible costs relating to the management activity (provided that all eligibility criteria stipulated in the grant agreement are met). In principle these costs should be covered by the indirect costs. Where it is the usual practice of the beneficiary to consider these costs as indirect costs, they cannot be charged as direct eligible costs, but only as indirect costs. Therefore, if the beneficiary receives a flat rate for indirect costs, and bank charges are considered to be indirect costs under the usual accounting and management principles and practices of the beneficiary, then they cannot be charged as direct costs.
- Benefits in kind (company car, vouchers, etc.): may be accepted only if they are justified and in conformity with the usual practices of the beneficiary. Like all costs, they must fulfil the conditions of Article II.14.1 of FCH JU GA.
- Recruitment costs: In general, these costs are not eligible as direct personnel costs since the beneficiary is required to have the human resources necessary for the action at the start of the project. If a beneficiary needs to recruit additional personnel during the course of the project the relevant costs could be considered as part of the normal indirect costs of the organisation if they fulfil the conditions of article II.14 of the GA and if it is the usual practice of the beneficiary to pay for those costs.
- Redundancy payments are in principle not considered as eligible costs. However, if the obligation to pay redundancy provisions arises from a statutory obligation under the applicable national labour law, the payments might be considered as eligible costs of the project.
- Forgone (lost) academic fees for post graduate students: Academic fees may be due by post-graduate students. Sometimes, in cases of work performed by the student for the university, the student may be exempt to pay (part of) the fee. This forgone income for the university is eligible as personnel cost when there is a labour contract with the student in which the amount is indicated. The other conditions of Article II.14.1 of the FCH JU GA have to be fulfilled as well.
- PhD costs: eligible if they fulfil the conditions of Article II.14.1 of the FCH JU GA.
- For public bodies, the costs of public officials paid directly from central government or local government budgets may also be considered as eligible costs if the other provisions of Article II.14 of FCH JU GA are fulfilled. For more explanations concerning the case of personnel (resources) made available by third parties to a beneficiary, please see "special cases" under Article II.14.2 of the FCH

JU GA.

▪ **The particular case of consultants:**

Consultants are natural (physical) persons, working for one or more beneficiaries in a FCH JU project. They may be either self-employed or working for a third party.

There are three possible ways of classifying the costs of consultants (in any event costs will ONLY be eligible if they fulfil the conditions listed in Article II.14 of FCH JU GA):

- 1) They can be considered as **personnel costs**; regardless of whether the intramuros consultants are self-employed or employed by a third party, if the following cumulative criteria are fulfilled:
  - The beneficiary has a contract to engage a physical/natural person to work for it and some of that work involves tasks to be carried out under the FCH JU project,
  - The physical person must work under the instructions of the beneficiary (i.e. the work is decided, designed and supervised by the beneficiary),
  - The physical person must work in the premises of the beneficiary (except in specific cases where teleworking has been agreed between both parties and provided such a practice is in full compliance with the provisions regarding teleworking and instructions given by the beneficiary as described here above),
  - The result of the work belongs to the beneficiary (Article II.26 of FCH JU GA),
  - The costs of employing the consultant are not significantly different from the personnel costs of employees of the same category working under labour law contract for the beneficiary,
  - The remuneration is based on working hours rather than on the delivering of specific outputs/products and should be recorded in the accounts of the beneficiary,
  - Travel and subsistence costs related to such consultants' participation in project meetings or other travel relating to the project would have to be paid directly by the beneficiary in order to be eligible.
- 2) Costs related to consultants can be considered as **subcontracting** costs if the beneficiary has to enter into a subcontract to hire these consultants to perform part of the work to be carried out under the project and the conditions set out in the FCH JU Grant Agreement, in particular if the provisions of Article II.7 of FCH JU GA relating to subcontracting are fulfilled. In these cases, the beneficiary's control over the work to be performed by the subcontractor is determined by the nature of the subcontract. The subcontractor does not usually work on the premises of the beneficiary and the terms of the work are not so closely carried out under the direct instruction of the beneficiary.

The remuneration of the subcontractor is based on the delivering of specific outputs/products rather than on working hours (even if an estimate of the working hours necessary should be taken into account for the pricing).

- 3) The last possibility is that the consultant participates in the project as a **beneficiary** (either as a physical person or possibly as an SME, if it meets the definition).
- The particular case of physical persons who do not receive a salary (self-employed, one-man companies, companies where the partners do not withdraw salaries); There must be a clear distinction depending on whether or not a salary is paid and accounted for as such in the books of the beneficiary. When no salaries are paid, there is a problem on how to measure the value of the contribution of these persons to the project. They can use a flat-rate covering the value of the personal work of natural (physical) persons who do not receive a salary and SME owners who do not receive a salary has been established. For further explanations please refer to Article II.14.1 of this guide.
  - Eligibility of costs relating to personnel costs of owners of SME: The same logic as above applies here: either the owner receives a salary from the SME, in which case the salary is an eligible cost following normal rules, or the owner does not receive a salary for its work for the SME, and therefore no record of its personnel costs can be found in the accounts of the company.

Following the Article II.14.1 of the FCH JU GA a flat-rate to cover the value of the personal work of natural (physical) persons who do not receive a salary and SME owners who do not receive a salary has been established. For further explanations please refer to Article II.14.1 of this guide

- Bonus payments: As a general rule, payment of bonuses that are not an employer's obligation arising from the national regulation relating to labour law or even from the employment contract and that are within its discretion may not be considered as part of normal remuneration, even though identified as a payment on the payroll, and their eligibility may be questioned (in particular with respect to the criterion of necessity for carrying out the project).

However, if such payments are part of the normal salary and benefit package of an employee they could be considered as part of the normal personnel costs. Nevertheless, these costs have to be compliant with the eligibility criteria of Article II.14 of the GA, in this case the most important of which will be the criterion of economy and coherence with the beneficiary's usual accounting practices. The costs must be in conformity with the usual behaviour of the participant.

The following criteria must be applied to the "bonus payments" to be considered eligible. Failing to meet one of these criteria means, in principle, rejection of the "bonus payments":

- 1) The bonus scheme must be provided for in the internal regulations and/or practices of the organisation (calculation method, category of employees falling under this scheme, maximum amount, etc).

- 2) The bonus scheme must apply to all projects (EU and non-EU projects, national and international) of the same kind; i.e. the bonus must be given to all international (EU and non EU) or to all national projects. Bonus schemes should be implemented in a consistent manner for the same type of activities/projects.
- 3) The bonus payments must not result in a level of remuneration inconsistent with the current market conditions for a worker of the same category/grade/experience.
- 4) The bonus payments must be recorded in the accounts of the contractor as personnel costs and must be subject to taxes and social security charges applicable to salaries or specifically exempt from such taxes and/or charges.
- 5) These bonuses can only be paid as part of the employee's gross remuneration. The criteria (qualitative or financial targets, research activities carried out, contractor's profitability, etc) used to calculate the amount of the bonus can be accepted provided they are of general application within the beneficiary's organisation and are objective.

### **The particular case of direct taxes and social charges related to personnel costs**

Social charges are normally considered eligible costs when specifically attributable to the project. Direct taxes and certain other charges related to personnel, however, are in general not considered to be eligible when deemed not to be incurred specifically for the implementation of a project, unless they are calculated on the basis of the individual salaries of the persons working on the project. However, beneficiaries tend to consider that all direct taxes and social charges linked to the remuneration of personnel are eligible, independently of the way they are calculated, as they are part of the full cost of employment related to research. In order to address this issue, the FCH JU will recognise as being eligible direct taxes and social charges to the extent they fulfil all of the following criteria:

- the charges are mandatory under the applicable legislation or sector agreements, or resulting from measures based on such legislation or agreements.
- they can be directly or indirectly<sup>35</sup> linked to the remuneration of personnel. These taxes and charges must relate to personnel costs allocated to the project. Taxes and charges calculated on the global payroll and inherent to the business of the entity are not deemed to fall within the scope of personnel costs and are therefore

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<sup>35</sup> This means that in order to satisfy this criterion the charges are not necessarily incurred for the specific individuals working on the projects funded under the contracts/grant agreements nor do they necessarily explicitly appear on the related payslip. Indeed, the related charges can be computed on the basis of specific accounting procedures, such as a pro rata charge on the overall employment costs of a legal entity and are fairly apportioned to the project. Taxes and charges for which the beneficiary is indebted for as a business entity, and having the nature of a business tax, are calculated on the "masse salariale" of the beneficiary, are not considered linked to the remuneration of personnel, in the sense of this paragraph.

ineligible.

- they are recorded according to the usual accounting principles of the beneficiary concerned.
- they are effectively incurred during the duration of the project and have been paid or will be paid obligatorily at a later date and reflected in the accounts of the beneficiary.

These principles will not be applied in cases of fraudulent claims for such costs.

*(b) Travel and subsistence allowances for staff taking part in the project*

- As a general rule, actual travel and related subsistence costs relating to the project may be considered as direct eligible costs, providing they comply with the beneficiary's usual practices and are adequately recorded, like any other cost.

*Example:*

*Beneficiary A declares the flight costs of a project meeting for a member of its staff travelling in business class:*

*If the usual practice of the beneficiary is to pay for business class tickets for staff of the same category, then the cost of the business class ticket will be eligible under the FCH JU GA*

*If the usual practice of the beneficiary is to pay for economy class tickets for staff of the same category, then the cost of the business class ticket will not be eligible under the FCH JU GA*

- There is no particular distinction regarding the eligibility of costs incurred for travelling outside or in Europe. Depending on the financial impact of the travel it might be convenient to discuss it with the Project Officer. Travel costs must be needed for the work in the project, or for activities related to it (e.g. presentation of a paper explaining the results of the project in a conference). Travel costs related to a conference where no specific project-related work will be performed or presented by the beneficiary would not be eligible. Travel costs should be limited to the necessity for the project; any extension of the travel for other professional or private reasons is not an eligible cost.
- Travel expenses of experts participating on punctual basis in the project (i.e. attendance to specific meetings) are not travel costs; however, they may be considered direct eligible costs, provided the participation of those experts is duly foreseen in Annex I. These costs may be reimbursed to the experts by the beneficiary or the beneficiary may directly deal with the travel arrangements (and therefore be directly invoiced).

Where it is the **usual practice** of the beneficiary to consider these costs (travel and subsistence allowances) as **indirect costs**, they cannot be charged as direct eligible costs, but only as indirect costs. On the other hand, if the contractor considers this category of costs on a direct basis, the same category (other travel and subsistence costs not attributed directly to projects) cannot be charged as indirect costs.

(c) *The purchase cost of durable equipment*

- Only equipment purchased for the purposes of carrying out the action can be charged as direct costs. To be considered as eligible, a cost must be determined according to the beneficiary's usual accounting practice and each beneficiary must apply its usual depreciation system for durable equipment. Depreciation is charged in each relevant periodic report. Depreciated costs of equipment can never exceed the purchase price of the equipment.

It is expected that the beneficiary calculates depreciation on the durable equipment that it purchases. Depreciation cannot be spread over a period exceeding the useful life of the equipment. Beneficiaries should be aware that not doing so and charging the full price of an asset in one single year **might be considered an "excessive" cost**, as referred to in Art. II.14.3 (g) of the FCH JU GA, and therefore be considered **ineligible**.

- Depreciation costs for equipment used for the project but bought before the start of the project are eligible under the conditions mentioned in Article II.14.1 of FCH JU GA above.
- Only the portion of the equipment used on the project may be charged. The amount of use (percentage used and time) must be auditable.

In some cases (e.g. Infrastructure) cost for equipment can include all those costs necessary for the asset to be in working condition for its intended use (site preparation, delivery and handling, installation, etc.).

- Depreciation at once instead of over periods is acceptable provided that: (1) the depreciation charged relates to the useful life of the equipment during the project period and (2) the one-off depreciation is coherent with the usual accounting practices of the beneficiary, and the national accounting rules.
- In the case where a beneficiary intends to purchase important equipment it is highly recommended to consult the FCH JU prior to the operation to ensure eligibility of the related costs and document the JU's consent. To that effect the FCH JU may request evidence that the principle of best value for money is respected by means of the following (1) 3 different offers or (2) use of a pre-existing framework contract or (3) detailed justification of why only the specific supplier was possible

**Cash-based accounting:** If the purchase cost of the equipment is recorded as an expense in the beneficiary's accounting system in the period concerned (cash based accounting) and if this is its usual accounting practice and is in line with the national accounting regulation/law, it is acceptable to charge the entire purchase cost to the project in the period concerned under the following conditions:

a) The cost must be economic and necessary.

b) Only the portion of the equipment used on the project may be charged. The amount of use (percentage used and time) must be auditable. Thus, if the equipment is used for other projects, and/or for other activities, part of the

equipment cost will be charged to these projects/activities.

**Subcontracting vs. durable equipment/consumables:** sometimes the purchase of equipment or consumables is associated with the provision of a service. Depending on the nature of the services provided, they may be considered subcontracts or part of the equipment purchase. If the service is part of the "package" of equipment purchase then it will be considered to be part of the equipment purchase. It may also depend on the consideration of these costs in the accounts of the beneficiary.

- Financial leasing with the option to buy durable equipment shall be charged, in accordance with the beneficiaries' own accounting practices. However, in order to comply with the principle of sound financial management, the cost claimed for durable equipment which is leased with an option to buy cannot exceed the costs that would have been incurred if the equipment had been purchased and depreciated under normal practices.

Operational leasing (renting): in this case, there is no possibility to buy the equipment. There is no depreciation involved (as the item is still the property of the leasing firm) but the costs are eligible if this follows the beneficiary's normal practices and does not exceed the costs of purchase of the equipment

In both cases, if the beneficiary does not use the equipment solely for the purposes of the project, only an auditable proportionate part of the "working time" (i.e. that part used for the project) may be charged.

- Where it is the usual practice of the beneficiary to consider durable equipment costs (or some of them) as indirect costs, those costs cannot be charged as direct costs, but as indirect costs.

*(d) The costs of consumables and supplies provided they are identifiable and assigned to the project:*

- Any consumables necessary for the implementation of the project may be considered as direct eligible costs.
- Where it is the usual practice of the beneficiary to consider consumable costs (or some of them) as indirect costs, those costs cannot be charged as direct costs, but as indirect costs.
- Consumables are only eligible costs under the project if bought after the start date of the project.

*(e) Subcontracting*

The costs of subcontracting are a direct eligible cost. The definition of subcontracting is given in Article II.7 of FCH JU GA. **Minor services** (which do not need to be foreseen in Annex I) have to be charged also in Form C under subcontracting (not under other direct costs).

(f) *Certificate on the methodology and certificate on the financial statements*

Costs incurred for the certificates on the financial statements and certificates on the methodology constitute eligible direct costs and are charged under management costs which are part of "Other activities". The cost of the CFS is an eligible cost in the grant agreement for which the certificate is submitted (Art. II.16). Nevertheless, if the CFS is not required by the grant agreement (i.e. FCH JU contribution is < EUR 50,000 or  $\leq$  325,000, for final and interim payments, respectively) the costs of the CFS will not be eligible, since these costs are not considered as necessary.

Certificates on the Financial Statements: The costs incurred for the CFS are eligible under "Management Costs"; however a distinction has to be made between certificates issued by external auditors and certificates established by Competent Public Officers: Certificates issued by external auditors have to be treated as "subcontracting" costs under the "management" activity and therefore they will not be included in the overheads calculation.

Certificates issued by Competent Public officers can be treated as "other direct costs" under the "management" activity.

(g) *Financial guarantees*

Cost of financial guarantees requested as a result of financial viability check (FVC) is eligible cost and should be charged as 'subcontracting' under 'management' activity.

(h) *Conference fees*

The same conditions for eligibility mentioned in Article II.14.1 apply; in particular, the necessity for the project to pay a participant to assist to a conference should be carefully checked. It could however, be acceptable for example if the participant were to present a paper related to the research in the project. In any case, this participation should have been mentioned in Annex I (Description of work) to the GA; if it is not, it is recommended to contact the Project Officer in the FCH JU before participating in the conference so that the question can be examined.

(i) *Internally invoiced costs*

Sometimes the use of certain equipment or facilities is shared between the different units of the same legal entity, and the costs of their use are charged through internal invoices. This type of costs may be eligible if their use for the project and the usage is properly recorded. In such case, the costs claimed must represent a fair apportionment and be based on objective, measurable and auditable criteria's.

Internally invoiced personnel costs for project specific activities may be eligible if the time worked on the project is substantiated by records covering all the workable time of the relevant personnel. The eligible hourly rate must be calculated based on the

actual cost for salaries and social charges incurred by the beneficiary.

Internal invoicing may apply also to items like computer runs, laboratory tests and other similar services where it is difficult to substantiate the actual time and the actual cost of each individual involved in each individual operation, and where an average personnel cost per type of computer run, type of test etc. has been calculated based on the actual costs incurred for the personnel involved. For these costs to be eligible the calculation of costs must be auditable.

The same logic applies to equipment, consumable or any other specific direct costs: where it is difficult to substantiate the actual cost of each individual test or use, an average cost may be calculated per type of test based on the actual cost of the equipment and consumables used and other specific direct costs such as maintenance of equipment provided. However, the calculation of costs must be auditable.

Internally invoiced overheads are normally not eligible as direct project costs. For beneficiaries charging overheads in accordance with Article II.16.5<sup>36</sup>, all overheads are covered by the applicable flat-rate contribution.

## B. Reimbursement of direct costs

**Reimbursement of direct costs = Direct costs x funding rate (as indicated in Art. 5 of the FCH JU GA)**

The upper funding limit fixes the maximum rate of reimbursement of direct costs per activity and per beneficiary. For matching reasons, the funding rates may be reduced compared to the upper funding limits and they vary from one call to another.

The different upper funding limits, 50%, 75% or 100% will depend on the type of activity and on the type of beneficiary. Concerning the type of activity (RTD, demonstration, other) the definitions provided here are general, and should be read in connection with the text of the "Call" under which the proposal is submitted and the related "Guide for Applicants".

***It is important to mention that the funding limits depend not only on the activities but also on the funding scheme concerned.***

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<sup>36</sup> [...] Reimbursement of indirect costs may reach a maximum of 20% of the total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries. Under this option, beneficiaries shall declare their actual indirect costs under eligible costs.

However, *industry*, whose accounting systems do not make a distinction between direct indirect costs, and non-profit public bodies, secondary and higher education establishments, and research organisations may opt for a reimbursement of their indirect costs by a flat rate of 20% of the total direct eligible costs, excluding their direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the *beneficiary*.

*There are two funding schemes in FCH JU Programme:*

- *Collaborative projects*
- *Coordination and support actions (CSA)*

## **Collaborative projects**

### **1. Research and technological development activities (RTD):**

RTD activities means activities directly aimed at creating new knowledge, new technology, and products, including scientific coordination. For RTD activities there will be two different upper funding limits 50% or 75% (depending on the status of the beneficiary). For matching reasons, the funding rates (as indicated in Art. 5 of the FCH JU GA) may be reduced compared to the upper funding limits.

#### **a. The upper funding limit of 75 % (may be reduced due to matching reasons) is available for the following beneficiaries:**

- non-profit public bodies: "public body" can be :
  1. either any legal entity established as such by national law,
  2. or an international organisation, which is an intergovernmental organisation (for instance, the UN), other than the European Union /Euratom, which has legal personality under international public law, as well as any specialised agency set up by such an international organisation<sup>37</sup>;
- secondary and higher education establishments (for example, universities whether or not public/or for profit)
- research organisations: this means a legal entity which:
  - is established as a non-profit organisation; a legal entity is qualified as "*nonprofit*" when considered as such by national or international law. Associations or explicit non-profit making legal entities would fit here (see below); and
  - carries out research or technological development as one of its main objectives.

In most cases the type of legal entity will be determined by the participants' national law. It will be up to the legal entity to prove it. In certain cases, a legal entity may find it difficult to determine its status. In these cases other indicative facts or evidence should be established.

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<sup>37</sup> For these and the following definitions please see Article 2 of the 7<sup>th</sup> Framework Programme "Rules for the participation of undertakings, research centres and universities ...(.)", Regulation (EC) N° 1906/2006 of the European Parliament and the Council of 18<sup>th</sup> December 2006

*Example:*

*A beneficiary could indicate its status under national tax law to support its claim to be a nonprofit research organisation.*

- *SMEs: means small and medium size enterprises within the meaning of Commission Recommendation 2003/361/EC in the version of 6 May 2003. According to Article 2 of the Annex, an SME (Micro, Small or Medium-sized Enterprise) is an enterprise which:*
  - has fewer than 250 employees,
  - has an annual turnover not exceeding 50 million EUR, and/or
  - has an annual balance-sheet total not exceeding 43 million EUR.

According to the new SME definition, possible relationships with other enterprises must be taken into account when calculating the data of the enterprise. For further information check the full text of Recommendation 2003/361/EC in the version of 6 May 2003.

The FCH JU will assist in providing some indicators for assessment, support and registration of the legal entities in a unique Commission database. This database will recognise the particular legal status of each beneficiary, which will be used for all its participations in projects under the FCH JU Programme as well as 7<sup>th</sup> Framework Programme.

*Changes of legal status of beneficiaries*

The FCH JU GA foresees (under Article II.16.5 and Article II.16.1) that non-profit public bodies, secondary and higher education establishments and research organisations and SMEs, are entitled to the upper funding limit of 75 % (may be reduced due to matching reasons)

Following the Commission decision from December 2009, FCH JU assumes that non-profit public bodies, secondary and higher education establishments and research organisations and SMEs are allowed to keep the 75 % upper funding limit (may be reduced due to matching reasons) for RTD activities even if they lose their status during the life of the project. This decision and the corresponding modification to Article II.16.1 of Annex II of the model GA have retroactive effects and shall apply to grant agreements in force **without the need for formal amendments.**

Acquiring the status of non-profit public body, SME, research organisation and secondary or higher education establishments during the life of a project **will not** entitle the beneficiary to claim the 75 % upper funding limit (may be reduced due to matching reasons) for that project. It may however use the 75 % upper funding limit for future GAs with RTD activities.

For information on the legal status of beneficiaries please go to the Commission document *Rules on the verification of existence, legal status and operational and financial capacity* in:

[http://ec.europa.eu/research/participants/portal/page/fp7\\_documentation](http://ec.europa.eu/research/participants/portal/page/fp7_documentation)

2. **Demonstration activities** means activities designed to prove the viability of new technologies that offer a potential economic advantage, but which cannot be commercialised directly (e.g. testing of products such as prototypes).
3. **Other activities:** Other activities, which are not covered by the activities mentioned above and are not part of the non-exhaustive list included in Article II.16 of FCH JU GA. They should be discussed carefully during the negotiations, and be included in Annex I to FCH JU GA.

**Scientific coordination** of the project **cannot** be charged under "**other activities**" (they are not management). Costs related to project meetings (kick-off, periodic, final) should in principle be charged under RTD activities, since they are deemed to address scientific/research aspects of the project.

*Examples:*

- **Dissemination activities** (for example the establishment of a website, the presentation of the project during conferences or workshops, travel costs related to the presentations, the drafting of a scientific publication including, if applicable, the payment of a fee for its publication)

*In principle the cost of drafting the first plan for the use and dissemination of the foreground would not be eligible since it is a part of the proposal. Only the cost of updating the plan for use and dissemination of foreground will be eligible. According to the FCH JU GA (Article II.4.2.b), this updated plan will be required at the time of the submission of the final report*

- **Networking activities** (for example the organisation of a specific seminar/meeting in order to network with other projects in the same field); activities aiming at communicating and exchanging information among individuals, groups, etc.. outside the project;

*!!! project meetings cannot be charged under this activity*

- **coordination activities** (for example the organisation of a meeting or travel for coordination purposes with other projects in the same field;

*!!! scientific coordination of the project cannot be charged under this activity;*

*meetings related to coordination of the project could be charged under "other costs" in principle by the coordinator of the project and only if described in the proposal and technical annex as such; this coordination activity would be typical in a CSA but more rare in a collaborative project.)*

- **intellectual property activities** (for example the filing and prosecution of patent (and other IPR) applications, including patent searches and legal advice or the payment of royalties to a third party for intellectual property rights which are needed to implement the project)

- **studies on the socio-economic impact** (for example the assessment of the

*expected socio-economic impact of the foreground or analysis of the factors that would influence their use)*

- **reporting on gender issues**
- **promotion** of the exploitation of the project's foreground <sup>(\*)</sup> (for example feasibility studies for the creation of spin-offs or "take up" activities regarding the assessment, trial and validation of promising, but not yet established technologies and solutions)

<sup>(\*)</sup>Remark: Actual commercial exploitation and any concrete preparation thereof (as opposed to the above mentioned feasibility studies or "take up" activities), as well as related activities (e.g. marketing) cannot receive funding.

**If complying with all the other requirements for eligibility (Article II.14 of FCH JU GA) (actual, economic, for the sole purpose of achieving the objectives of the project, etc.)**

4. **Management activities are part of "other activities" despite the fact that** in form C the activities mentioned under Articles II.2 and Article II.16.3 of FCH JU GA are separated. Management costs may include for example the costs to organise a call or a tender to choose a new beneficiary or subcontractor.

Under FCH JU Programme there is no defined ceiling of costs or percentage of FCH JU funding which can be used for management activities. However, like all costs, in order to be eligible, they must comply with the conditions set out in Article II.14 of FCH JU GA (economy, efficiency, etc.).

"Management tasks" include coordination tasks that have to be performed by the coordinator (Article II.2.3) and tasks beyond those specific coordination tasks of the project that can be performed as well by beneficiaries other than the coordinator (eg. the certificates on financial statements, preparation of financial statements).

In certain cases there could be in a project a **beneficiary carrying out only management activities** as explained in this guide under the comments to Article II.2 of FCH JU GA. The reimbursement to a beneficiary which has only management costs may not exceed the upper funding limit of 100% (may be reduced due to matching reasons) of the total eligible costs, whatever its legal status is.

A non-exhaustive list of activities is included in Article II.16.3 of FCH JU GA. According to this article "**management** of the consortium activities includes:

- *maintenance of the consortium agreement, if it is obligatory,*
- *the overall legal, ethical, financial and administrative management including, for each of the beneficiaries, the obtaining of the certificates on the financial statements and on the methodology and costs relating to financial audits and technical reviews,*
- *any other management activities foreseen by the annexes, except coordination of research and technological development activities."*

As mentioned therein, management costs can never include what is commonly known as "scientific coordination".

Management of the consortium activities does not include coordination of Research and technological development activities (RTD); therefore "RTD activities" include "scientific coordination". Most of the **project meetings** are scientific meetings and have to be charged as a scientific (RTD) activity. *Examples of **scientific coordination** could be:*

- > *The scientific coordination and monitoring of subprojects and work-packages (including the activities as work package leader);*
- > *The supervision of project progress milestones and project global critical path;*
- > *The scientific review of the work performed by the partners including scientific deliverables and the coordination of internal progress reports;*
- > *Monitoring of progress with work packages, deliverables and milestones and the work plan, including the verification of the quality, consistency and respect of deadlines;*
- > *Research risk management;*
- > *The preparation of the scientific part of the reports and deliverables to be submitted to the EU;*
- > *Conflict resolving relating to technical and organisational issues;*
- > *Preparation by scientific/technical staff of scientific meetings (drawing up the agenda, the minutes..);*
- > *Activities related to participation in scientific decision making bodies such executive committees, scientific advisory boards and steering committees (including travelling related costs).*

Meetings relating to the management and coordination of the project should be charged as management activities costs,

*Examples of **Management** activities:*

- > *Designing and maintaining partner specific templates for collecting input to the required FCH JU documents;*
- > *Implementing and maintaining of a project-specific database for reporting and controlling, including the adaptation of the structure after changes in the workplan and the consortium;*
- > *Drafting and maintaining the dissemination and exploitation plan following the FCH JU 's requirements;*
- > *Preparing and post-processing of FCH JU reviews from the consortium-side including support in the implementation of recommendations from the FCH JU and reviewers,*
- > *The administrative tasks involved in the preparation, executing and post-processing of major project meetings such as Steering Committee meetings, General Assemblies and meetings with the advisory board (tasks: agendas,*

*invitations, location of meeting places, organization of rooms and equipment, preparation distribution and archiving of materials, minutes and action lists);*

- > *Implementing and maintaining the project infrastructure, e.g., the internal platform for information exchange and email lists;*
- > *Handling of legal issues, IPR issues and maintenance of the consortium agreement, if obligatory;*
- > *Handling of the project correspondence and the day-to-day requests from partners and external bodies;*
- > *Organising a call or a tender to choose a new beneficiary or subcontractor.*

## 5. Training activities are also part of "other activities"

Training activities should contribute to professional development through advanced training of researchers and other key staff, research managers, industrial executives, and potential users of the knowledge generated by the project<sup>38</sup>.

They may cover the salary costs of those providing the training (if in conformity with Article II.14 of FCH JU GA) but not the salary costs of those being trained as mentioned in Article II.16.3 of FCH JU GA.

## Coordination and support actions (CSA)

**Coordination and support actions (CSA)** are activities which aim at coordinating or supporting research activities and policies. The actions will cover a broader spectrum of activities from coordinating and networking programmes and policies to more specific or shorter-term support activities. They **will not cover research, development or demonstration activities**.

## 2. Indirect Cost

### A. Notion of indirect costs

Indirect costs are all those eligible costs which cannot be identified by the beneficiary as being directly attributed to the project, but which can be identified and justified by its accounting system as being incurred in direct relationship with the eligible direct costs attributed to the project.

**Indirect costs**, also called **overheads**, are all the structural and support costs of an **administrative, technical and logistical nature** which are cross-cutting for the operation of the beneficiary body's various activities and cannot therefore be attributed in full to the project. The nature of an indirect cost is such that it is not possible, or at least not feasible,

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<sup>38</sup> Even if usually training is envisaged as that given by and for personnel working in the project, it might be possible (if agreed by the FCH JU ) to train other people not directly linked to the project, like e.g. researchers or potential users of the knowledge generated by the project (foreground). However, this should be clearly specified in the Description of Work (Annex I) as a task of the project.

to measure directly how much of the cost is attributable to a single cost objective.

*Example:*

*Overheads comprise costs connected with infrastructures and the general operation of the organisation such as hiring or depreciation of buildings and plant, water/gas/electricity, maintenance, insurance, supplies and petty office equipment, communication and connection costs, postage, etc. and costs connected with horizontal services such as administrative and financial management, human resources, training, legal advice, documentation, etc.*

Indirect costs must be in accordance with normal accounting practices of the beneficiary and must be extracted from or reconciled with the official accounts.

When the accounting system of the beneficiary includes overhead costs which are not eligible under the FCH JU GA, these costs must be removed when submitting financial reports.

## B. Identification of indirect costs

**WARNING:** Methods of identification of indirect costs differ in FCH JU Programme and FP7:

<b>Identification of INDIRECT COSTS</b>	
<b>FCH JU</b>	<b>FP 7</b>
<ul style="list-style-type: none"> <li>- Actual (*)</li> <li>- Actual /simplified method (*)</li> <li>- Flat rate of 20 % of direct eligible costs</li> </ul>	<ul style="list-style-type: none"> <li>- Actual (*)</li> <li>- Actual /simplified method (*)</li> <li>- Flat rate of 20 % of direct eligible costs</li> <li>- Specific flat rate of 60%</li> </ul>

(\*) with the possibility for a beneficiary to use average personnel costs if in accordance with its usual cost accounting practice and in compliance with the criteria of Article II.14.1

In FCH JU Programme all departments, faculties or institutes which are part of the same legal entity must use the same system of cost identification (unless a special clause 13 foreseeing derogation for a particular department/institute is included in the GA).

### Methods of calculation of indirect costs:

#### 1. Actual Indirect Costs

**Industry** with an analytical accounting system that can identify and group their indirect costs (pool of costs) in accordance with the eligibility criteria (e.g. exclude non-eligible costs) must report their real indirect costs.

Whereas **non-profit public bodies, secondary and higher education establishments, and**

**research organisations** who have an analytical accounting system must report their real indirect costs or choose the 20% flat rate option.

The organisations need a fair "key" or "driver" to distribute these costs from the "pool" of indirect costs into the different projects and activities. Different allocation methodologies are acceptable as long as they are in line with the general accounting policy of the beneficiary (i.e. allocation of indirect costs to the project via personnel, either as a percentage of personnel costs or a fixed hourly rate) and they are fair and reliable and not an unsubstantiated estimation. No subjective or arbitrary keys can be accepted..

Where another cost driver not based on personnel is used, the result of the application of this cost driver must not exceed the total amount of indirect costs to be allocated.

### **1.a. Actual Indirect Costs - Simplified method**

The simplified method is a modality of the actual indirect costs calculation, and is a way of declaring indirect costs which applies to organisations which do not aggregate their indirect costs at a detailed level (centre, department), but can aggregate their indirect costs **at the level of the legal entity**. It is a system that can be used if the organisation does not have an accounting system with a detailed cost allocation.

This simplified method has to be in accordance with their usual accounting and management principles and practices; it does not involve necessarily the introduction of a new method just for FCH JU project purposes.

Beneficiaries are allowed to use it, provided this simplified approach is based on actual costs derived from the financial accounts of the last closed accounting year. Therefore, beneficiaries using the simplified method shall not submit an adjustment covering the difference between the indirect costs derived from the accounts of the last closed financial year and the indirect costs derived from the financial accounts of the project period.

Beneficiaries should be in a position to justify and reconcile the results with the accounting records and be able to demonstrate in case of an audit that the indirect costs are fairly allocated to the research activity/projects.

#### **Minimal requirements of a simplified method:**

Although each legal entity will use its own system, the minimum requirements for it to be considered a simplified method for FCH JU Programme purposes are the following:

- Firstly, the system must allow the beneficiary to **identify and remove** its direct **ineligible costs** (VAT, etc.),
- Secondly, it must **at least allow for the allocation of the overheads at the level of the legal entity** to the individual projects by using a fair "driver" (e.g. total productive hours). In this case, it is clear that if the overheads taken into account are all those of the beneficiary (not distinguished by activities), the driver used for the calculation of the relevant rate (e.g. total productive hours) will include all the activities of the beneficiary (i.e. total hours including not only hours specifically for research,

demonstration, etc.). In this case, also the beneficiary should be able to justify both the total amount of the overheads and the total amount of productive hours.

*Example:*

*building where both research and teaching activities are performed. Both the overheads generated by the research and the teaching activities are aggregated into a common pool by the accounting system of the beneficiary, obtaining (after applying an adequate cost driver), a single overheads rate.*

- The system applied and the costs declared according to it should follow the **normal accounting principles** and practices of the beneficiary. Therefore, if the system used by a beneficiary is more "refined" than the "minimum" requirements mentioned above, it is that system which should be used when declaring costs.

*Example:*

*if a beneficiary's accounting system distinguishes between different overheads rates according to the type of activity (research, teaching...), then the overheads declared in a FCH JU GA should follow this practice and refer only to the concerned activities (research, demonstration.)*

### **Does the simplified method need to be certified by the FCH JU?**

The simplified method does not require previous registration or certification by the FCH JU. Consequently, there is no specific certification of the simplified method used by a beneficiary. The beneficiary has the responsibility to ensure that the simplified method used is compliant with the requirements. However, the certification on the methodology - described in Article II.4 of FCH JU GA – may cover the methodology of calculation of indirect costs (including the simplified method) for those beneficiaries who are allowed to use the certification on the methodology.

When a Certificate on the Financial Statement is submitted the auditor will describe the (simplified) accounting system certifying these points. It is important to remember that this option refers to the possibility for a beneficiary to use a simplified method of declaring indirect costs. There is therefore no "standard model" - only different simplified methods used by beneficiaries complying with the requirements mentioned above.

*Examples of the simplified method:*

*An organisation is working on three projects and has identified EUR 10,000 as eligible overall overheads of the organisation (electricity, administrative tasks, supply, equipment, etc.)*

*For the division of the overheads between the three projects, the organisation uses a simplified method based on the key driver personnel: overheads are distributed according to a fixed hourly rate.*

*[Example 1: **allocation via hourly rate**]:*

*Overheads of the organisation: EUR 10,000*

*Worked hours at the level of the legal entity: 2,000*

Hourly rate:  $10,000/2,000 = \text{EUR } 5$   
 Allocation between projects:

Project 1: 600 worked hours  $\Rightarrow 600 \times \text{EUR } 5 = \text{EUR } 3,000$  indirect costs  
 Project 2: 400 worked hours  $\Rightarrow 400 \times \text{EUR } 5 = \text{EUR } 2,000$  indirect costs  
 Project 3: 1,000 worked hours  $\Rightarrow 1,000 \times \text{EUR } 5 = \text{EUR } 5,000$  indirect costs

[Example 2: **allocation via percentage of personnel cost**]  
 Overheads of the organisation: EUR 10,000  
 Personnel cost at the level of the legal entity: EUR 100,000  
 Rate:  $10,000/100,000 = 0,1$  (10%)  
 Allocation between projects:

Project 1: personnel cost = EUR 30,000  $\Rightarrow \text{EUR } 30,000 \times 0,1 = \text{EUR } 3,000$  indirect costs  
 Project 2: personnel cost = EUR 20,000  $\Rightarrow \text{EUR } 20,000 \times 0,1 = \text{EUR } 2,000$  indirect costs  
 Project 3: personnel cost = EUR 50,000  $\Rightarrow \text{EUR } 50,000 \times 0,1 = \text{EUR } 5,000$  indirect costs

If an organisation has only one centre or department, by definition, the aggregations of their indirect costs at the level of the centre and at the level of the legal entity coincide. In this case, the way to find out if the organisation can use a simplified method is to check whether the organisation has an analytical accounting system with detailed cost allocation beyond the calculation at the level of legal entity.

## 2. Flat rate of 20 %

This flat rate is open to non-profit public bodies, secondary and higher education establishments, and research organisations if they choose this method.

An *Industry* organisation is entitled to flat rate method only if its accounting systems do not make distinction between direct and indirect costs.

Accordingly, when this option is chosen, there is no need for certification of the indirect costs, only of the direct ones.

- The base of calculation is the total direct eligible costs of the beneficiary, excluding the costs for subcontracting and the costs of resources made available by third parties that are not used on the premises of the beneficiary. In both cases, the overheads (electricity, supply, etc.) are not incurred by the beneficiary but by the subcontractor or the third party.

*Example: calculation of indirect costs in a Collaborative project*

<i>Personnel</i>	<i>EUR 1,000,000</i>
<i>Subcontracting</i>	<i>EUR 100,000</i>
<i>Researcher from a third university who works in his university</i>	<i>EUR 20,000</i>
<i>Researcher from a third university who works in the premises of the beneficiary</i>	<i>EUR 15,000</i>

<i>Travel cost</i>	<i>EUR 5,000</i>
<i>Equipment</i>	<i>EUR 50,000</i>
<b><i>Total of direct costs</i></b>	<b><i>EUR 1,190,000</i></b>
<i>Calculation of indirect costs:</i>	
<i>EUR 1,190,000 – EUR 100,000 (subcontracting) – EUR 20,000 (researcher who does not work in the premises of the beneficiary) = EUR 1,070,000 x 0,2</i>	
<i>= EUR 214,000</i>	

- Subject to the accounting principles of the beneficiaries, the following items may be considered as **indirect eligible costs**:
  - costs related to general administration and management;
  - costs of office or laboratory space, including rent or depreciation of buildings and equipment, and related expenditure such as water, heating, electricity, maintenance, insurance and safety costs;
  - communication expenses, network connection charges, postal charges and office supplies;
  - common office equipment such as PC's, laptops, office software;
  - miscellaneous recurring consumables; etc.

provided they can be identified and justified by the accounting system of the participant as being incurred in **direct relationship with the eligible direct costs attributed to the project**.

Such costs are normally deemed to be covered by the flat rate (20%) and cannot be charged as direct costs unless it is established that the accounting principles of beneficiaries consider them as direct costs.

### **Changes on the indirect cost method (ICM)**

In general the beneficiary shall apply the indirect cost option chosen in all grant agreements under FCH JU Programme.

A change is possible as follows:

- Change of ICM from **flat rate method to actual indirect costs method (including simplified method)** is possible in all cases if the beneficiary's accounting system has been changed to allow for the identification of real costs. It shall apply to future grant agreements and through amendment to all ongoing GAs.
- Change of ICM from **actual indirect costs to flat rate** is possible only in case of an error, when it is discovered later that the beneficiary is not entitled to that ICM (see below).

### **Mistake in the choice of ICM**

It is possible that a change is required due to a mistake during the negotiation of the

first project where the legal entity participates. If this is the case, the beneficiary has to inform the FCH JU as soon as possible about this error with a list of projects where the entity participates, and explain in detail the circumstances of the error. This should be accompanied by a statement from a qualified auditor certifying the error in the following cases:

- 1) in all cases if a certificate of financial statements (CFS) from an auditor has already been submitted by the beneficiary for the project, and
- 2) in case of doubt at the discretion of the FCH JU particularly if the request for change arrives after the submission of the first financial reports .

The FCH JU will take a decision on the basis of those documents. If the change of ICM due to a mistake is accepted, it will affect all on-going projects.

### C. Reimbursement of indirect costs

**WARNING:** Reimbursement of indirect costs is calculated differently in FCH JU Programme and in FP7. While in FP7, the funding rates apply to the sum of direct and indirect costs, this is not the case in the FCH JU Programme.

<b>Reimbursement of INDIRECT COSTS</b>	
<b>FCH JU</b>	<b>FP 7</b>
If identification method is <b>actual</b> indirect cost or (actual / <b>simplified method</b> )	(direct cost + indirect costs) x upper funding limit
➔ and if Collaborative Projects, then actual indirect cost with max. of 20 % of total direct costs <sup>(*)</sup>	
➔ and if Coordination and Support Actions <sup>(**)</sup> , then actual indirect costs with a max. of 7 % of total direct costs <sup>(*)</sup>	
If identification method is flat	
➔ and if Collaborative Projects, then 20 % of total direct costs <sup>(*)</sup>	
➔ and if Coordination and Support Actions <sup>(**)</sup> , then a max. of 7 % of total direct costs <sup>(*)</sup>	

<sup>(\*)</sup> excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries

<sup>(\*\*)</sup> **Reimbursement of indirect costs for CSAs: Maximum of 7% of direct costs**

In the case of Coordination and Support Actions (CSA), the reimbursement of indirect eligible costs for every beneficiary may reach a maximum of 7% of the direct eligible costs, excluding the direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used

on the premises of the beneficiary.

For this funding scheme, the FCH JU financial contribution may not exceed 100% ( however the upper funding limit may be reduced due to matching reasons) of the total direct eligible costs but the reimbursement of indirect costs cannot exceed a maximum of 7% of the direct eligible costs.

This 7% is not a flat rate; it is a maximum reimbursement rate. Beneficiaries which identify actual indirect costs will still have to declare their actual indirect costs, and their auditor will have to certify them in the Certificate of Financial Statements in the cases foreseen in the FCH JU GA. However, they will be reimbursed a maximum of 7%. Those using the flat rate of 20% in projects with RTD in order to determine indirect costs will have to use the same method in CSA projects with FCH. Equally, they will also be reimbursed a maximum of 7%, but indirect costs will not need certification due to the use of the flat rate.

*Example1*

<p>If identification method is <b>actual</b> indirect cost or actual / <b>simplified method</b></p>	
<p>➔ and if Collaborative Projects, then actual indirect cost with max. of 20 % of direct costs<sup>(*)</sup></p>	<p><i>Example 1: DC= EUR 100,000 and actual IC= EUR 18,000 Reimbursement for IC: EUR 18,000</i></p> <p><i>Example 2: DC= EUR 100,000 and actual IC= EUR 40,000 reimbursement for IC: EUR 20,000</i></p>
<p>➔ and if Coordination and Support Actions(CSA ), then actual indirect costs with a max. of 7 % of direct costs <sup>(*)</sup></p>	<p><i>Example 3: DC= EUR 100,000 and actual IC= EUR 6,000 Reimbursement for IC: EUR 6,000</i></p> <p><i>Example 4: DC= EUR 100,000 and actual IC= EUR 15,000 reimbursement for IC: EUR 7,000</i></p>
<p>If identification method is <b>flat rate of 20 %</b></p>	
<p>➔ and if Collaborative Projects, then 20 % of direct costs<sup>(*)</sup></p>	<p><i>Example 5: DC= EUR 100,000 IC are identified with a 20% flat rate=&gt;EUR 20,000 Reimbursement for IC: EUR 20,000</i></p>
<p>➔ and if Coordination and Support Actions (CSA <sup>(**)</sup>), then a max. of 7 % of direct costs<sup>(*)</sup>  (Exception! call 2008: 20%)</p>	<p><i>Example 6: DC= EUR 100,000 IC are identified with a 20% flat rate=&gt;EUR 20,000 Reimbursement for IC limited to 7% =&gt; EUR 7,000</i></p>

DC – direct costs

IC – indirect costs

<sup>(\*)</sup> excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries

## Article II.17 of FCH JU GA – Receipts of the project

The financial contribution of the FCH JU may not have the purpose or effect of producing a profit for the beneficiaries. For this reason, the total requested FCH JU funding plus receipts cannot exceed the total eligible costs.

**If Total FCH JU contribution + receipts (including interest generated on pre-financing)  $\leq$  total eligible costs = No reduction of FCH JU contribution**

**Profit must be assessed at the level of the beneficiary.**

As a consequence, since the FCH JU financial contribution is calculated, among other criteria, on the basis of a provisional budget and according to maximum reimbursement rates of eligible costs, this provisional budget must be composed of estimated eligible costs as well as of **estimated receipts**, (if they can be estimated in advance).

Four kinds of receipts must be taken into consideration:

- Financial transfers or their equivalent to the beneficiary from third parties;
  - Contributions in kind from third parties;
  - Income generated by the project ;
  - Interest generated by pre-financing.
- a) In the first two cases (financial transfers or contributions in kind), there are two cumulative conditions to be fulfilled in order to consider these endowments as receipts of the project, as foreseen in Article II.17 of Annex II (General Conditions) to FCH JU GA :
- If the contribution made by a third party is **allocated to the beneficiary specifically for use on the project**, the resources must be declared as receipts of the project in the beneficiary's Financial Statement (Form C). However, if the use of these contributions is at the discretion of the beneficiary they may be considered as eligible costs of the project but are not to be considered as receipts
  - If there is **no full reimbursement** by the beneficiary to the third party, the part of the costs that has not been reimbursed has to be considered as a receipt and must be declared by the beneficiary as such. The part which has been reimbursed is not a receipt or a contribution by a third party, but a cost to the beneficiary, and should be declared as such.

*Example:*

*A university professor whose costs are charged by the university in the FCH JU GA, but whose salary is paid by the Ministry. This contribution in kind from a third party (the Ministry) is not to be considered a receipt, unless the professor has been specifically detached by the Ministry to the university to work for the project in question. In other words, if the University is free to decide the allocation of the professor's work, then his/her contribution is assimilated to an "own resource" of the university, and it is not a receipt.*

In any case where contributions from third parties are used by the beneficiary for the project, the latter is required to inform the third party of this use, in accordance with the national legislation or practice in force.

- b) Any income generated by the project itself, including the sale of assets bought for the project (limited to the initial cost of purchase) is considered as a receipt of the project (e.g. admission fee to a conference carried out by the consortium, sale of the proceedings of such a conference, sale of equipment bought for the project, etc.).

Interest generated on pre-financing is also considered as a receipt and should be taken into consideration with the final payment (see section c) hereafter).

By derogation to the above-mentioned principle, **income generated in using the foreground resulting from the project is not considered as a receipt (Art. II. 7)**. The use of the foreground resulting from the project is often the main objective of any project supported by the FCH JU financial contribution, and therefore considering it a receipt could penalize it.

- c) In case of interest generated by pre-financing, the obligation to declare this interest shall apply solely to the coordinator who receives pre-financing directly from the FCH JU. In order to avoid discrimination between beneficiaries, the provision of the FCH JU GA shall apply only to the share of pre-financing not distributed by the coordinator to the other beneficiaries of the consortium. **This means that the coordinator does not have to declare the interest on its own share of pre-financing, it only has to declare interest on the part of pre-financing not yet distributed to the other beneficiaries.**

In case of mono-partner actions the whole amount paid by the FCH JU to the beneficiary will be subject of declaration of interest from the moment it is received by the beneficiary.

The pre-financing is paid usually within 45 days following the entry into force of the FCH JU GA. The rules concerning interest apply only to pre-financing, and not to interim payments. In other words, once the pre-financing received after the signature of the FCH JU GA is entirely distributed to the other beneficiaries the obligation expires, even if further (interim) payments are received from the FCH JU. These following payments will not be considered pre-financing and will not re-create the obligation to declare interests.

#### ***When to declare interest***

The coordinator (and only the coordinator) shall inform the FCH JU of the amount of any interest yielded by the pre-financing it has received from the FCH JU at each reporting period.

The amount of interest declared by the coordinator should be mentioned in its financial statement (Form C point 3).

#### **When to take receipts into consideration?**

Receipts shall be declared at each reporting period but will be taken into consideration only with the final payment<sup>39</sup> to verify compliance with the non-profit principle.

*Example:*

*Calculation of the final payment:*

*Coordinator X with total eligible costs in a project of: EUR 100,000*

*FCH JU contribution: EUR 50,000*

*Receipts:*

- *National grant to the coordinator for the work in the project: EUR 20,000*
- *Support from industrial sponsor for the work in the project: EUR 15,000*
- *Fees charged to participants in a seminar at the end of the project: EUR 5,000*
- *Interest generated on pre-financing: EUR 5,000*

*Total costs= EUR 100,000*

*Total receipts= EUR 45,000*

*FCH JU contribution = EUR 50,000 + total receipts (EUR 45,000)= EUR 95,000 which is below the total costs of the coordinator, therefore no change to the FCH JU contribution.*

Contributions from one beneficiary to another within the same project are not considered as receipts. A receipt is a contribution from a third party to the project. Therefore, if one beneficiary funds another beneficiary in the same FCH JU GA to help it carry out work, this will not be considered a receipt, as it is received from a beneficiary, and not from a third party.

Beneficiaries are required to include the receipts received in the financial statements (Form C) corresponding to the reporting period. They will be taken into account when calculating the final payment (i.e. after the end of the project) and then the potential reduction of the FCH JU contribution may take place.

## **Article II.18 of FCH JU GA – The financial contribution of the FCH JU**

### **1. The FCH JU financial contribution in the form of reimbursement of eligible costs.**

Principles of calculation of the FCH JU contribution:

- The FCH JU contribution shall be calculated by reference to the costs of the project as a whole and its reimbursement shall be based on the accepted costs of each beneficiary.
- The contribution shall cover reimbursement of direct and indirect costs. Reimbursement of direct costs shall be determined by applying the reimbursement rates indicated in Article 5 per activity and per beneficiary to the actual eligible costs. Reimbursement of indirect costs shall be based on actual indirect costs (if < 20% of direct eligible costs) or be calculated by applying flat rate of 20% of total direct eligible costs excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of

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<sup>39</sup> Information for beneficiaries who participate also in FP7: in FP7 the interest generated by the pre-financing will be deducted from the EU contribution and offset against the subsequent payment.

the beneficiaries (7 % for CSA).

- The FCH JU contribution cannot give rise to any profit for any beneficiary.
- For each beneficiary, the FCH JU contribution cannot exceed the eligible costs minus the receipts for the project.
- The total amount of payments by FCH JU shall not exceed in any circumstances the maximum amount of the FCH JU contribution referred to in Article 5, even if the consortium decides to increase the work on the project or to add new beneficiaries with the approval of the FCH JU.

*Example:*

*Beneficiary1 (University) declaring actual indirect costs.*

*Subcontracting: EUR 0,00*

<i>Activities</i>	<i>Accepted direct costs (EUR)</i>	<i>Reimbursement of direct costs<sup>40</sup> (EUR)</i>	<i>Accepted indirect costs (EUR)</i>	<i>Reimbursement of indirect costs (EUR)<sup>41</sup></i>
<i>RTD</i>	<i>100,000</i>	<i>60,000</i>	<i>60,000</i>	<i>100,000 x 20 % = 20,000</i>
<i>Demonstration</i>	<i>100,000</i>	<i>40,000</i>	<i>60,000</i>	<i>100,000 x 20% = 20,000</i>
<i>Management</i>	<i>40,000</i>	<i>32,000</i>	<i>10,000</i>	<i>40,000 x 20% = 8,000</i>
<i>Other</i>	<i>10,000</i>	<i>8,000</i>	<i>3,000</i>	<i>10,000 x 20% = 2,000</i>
<b><i>Total eligible costs</i></b>	<i>250,000</i>		<i>133,000</i>	
<b><i>Total cost to be reimbursed</i></b>		<i>140,000</i>		<i>50,000</i>
<b><i>Receipts</i></b>	<i>25,000</i>			
<b><i>FCH JU contribution</i></b>	<b><i>EUR 190,000</i></b>			

*The FCH JU contribution does not change as the addition of the FCH JU contribution (EUR 190,000) + the receipts of the project (EUR 25,000) is less than the total cost of the project for the beneficiary (EUR 383,000).*

## 2. FCH JU contribution in the form of lump sums.

**WARNING:** As indicated above, the call for proposal could allow reimbursement of lump sums for beneficiaries from international cooperation partner countries<sup>42</sup> (ICPC). However, it has never been implemented under FCH JU Programme. Therefore, this provision is theoretical at this stage.

<sup>40</sup> FCH JU funding rates applied in this example: 60 % for RTD, 40% for Demo, 80 % for Management and other activities

<sup>41</sup> Accepted actual indirect costs are higher than 20 % of total direct costs, thus the reimbursement of indirect costs shall be calculated by applying max. 20% of total direct costs excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries.

<sup>42</sup> Article 2.12 of Regulation (EC) N° 1906/2006 defines these as "a third country which the Commission classifies as low-income, lower-middle-income or upper-middle-income country and which is identified as such in the work programmes".

## 2.1 Lump sums for International Cooperation Partner Countries (ICPC)

ICPC beneficiaries when participating in a FCH JU GA have got the option between being reimbursed on the basis of eligible costs or on the basis of lump-sums. This option can be made (and changed) up to the moment of the signature of the GA. Once made, it will apply during the whole duration of the FCH JU GA without the possibility of changing it. ICPC beneficiaries may opt for a lump sum in a given project(s) and for reimbursement of costs in another(s). Whatever the final option chosen, the maximum FCH JU contribution for the project will remain.

Depending on the country, the lump sum contribution for participants from ICPC is defined like this:

Table 1: Lump sum contribution per country income group

<i>Economy of the ICPC</i>	<i>Contribution (EUR/researcher/year)</i>
<i>low-income</i>	<b>8,000</b>
<i>lower middle income</i>	<b>9,800</b>
<i>upper middle income</i>	<b>20,700</b>

Reimbursement rates shall apply to the lump-sums amounts. For simplification purposes, for funding schemes with research and technological development activities, participants opting for the use of lumpsums are deemed to be undertaking only research and technological activities in the project.

For a legal entity established in an ICPC, if the lump sum option is chosen, the contribution in a project is based on the amounts in Table 1. These amounts must be multiplied by the total number of person-years for the project requested by the ICPC legal entity. When the person is not working full-time on the project, these amounts must be reduced to take into account the portion of his/her working time devoted to the project. The maximum FCH JU contribution is calculated by applying funding rates to the resulting amount. This amount is all inclusive, covering support towards both the direct and the indirect costs. In other words, the lump sum is deemed to cover all costs of a participant from an ICPC country, including not only the costs of personnel and travel, but also, among others, equipment, consumables, subcontracts and indirect costs.

*Example:*

*SME from ICPC country (low-income) having chosen a lump-sum, in a 3-year collaborative project GA with 6 researchers working on the project full-time and 3 working part-time at 50%.*

*Total researcher-years for the project: 3 years x 7.5 researchers/year= 22.5*

*Funding for the SME: 22.5 researcher/year x EUR 8,000 /year= EUR 180,000 x 0,60 (60%<sup>43</sup> reimbursement rate for an SME in a collaborative project)= EUR 108,000*

*For simplification purposes, for funding schemes with research and technological*

<sup>43</sup> The given examples apply hypothetical percentages and concern direct costs only. Funding rates are indicated in Art.5 and may vary from one call to another.

*development activities, participant's option for the use of lump-sums are deemed to be undertaking only research and technological activities in the project.*

## **2.2 Payment of lump-sums for ICPC beneficiaries**

The payment of the pre-financing for the lump-sums follows the same rules as the standard pre-financing. The interim payments following a reporting period will also follow the general rules and will be made on the basis of Form C (financial statement) and the actual time worked by the ICPC beneficiary during the period in question. For the final payment, the same rules apply (including the approval of the final report by the FCH JU).

The contribution for the ICPC participants is agreed as part of the budget during the negotiations. Their work is defined in Annex 1 together with the work of the other participants. Payments will be made based on actual effort involved. Payments are released based on periodic reporting (as for the other beneficiaries) but ICPC beneficiaries only have to report on the time devoted to the project and not on the costs incurred.

## **2.3 Reporting and auditing of lump-sums for ICPC beneficiaries:**

As the lump-sums are calculated on the basis of researchers/year, the reports submitted by the ICPC beneficiary will include the financial Form C and the number of actual hours worked by the researchers on the project. Consequently, the beneficiary will keep a record of the time (e.g. timesheets) worked by the researchers on the project. The FCH JU services and the other entities authorised by the FCH JU GA may carry out audits on the premises of the beneficiary to verify its compliance with this requirement.

As the beneficiaries are paid on the basis of lump-sums, there is no requirement to submit certificates on financial statements, even if the FCH JU contribution is above the thresholds of EUR 375,000 and EUR 50,000 respectively for interim and final payment.

*Example<sup>44</sup> of calculation of FCH JU funding in a project*

*Cooperative project with 6 partners:*

*1 ICPC university participant (from a low-income country)  
reimbursed on the basis of lump-sums with 20 researcher-years:*

*FCH JU funding = (EUR 8,000 x 20 = EUR 160,000 x 60%) = EUR 96,000 of FCH JU funding*

*1 ICPC university participant reimbursed on the basis of EUR 200,000 total eligible costs (EUR 170,000 of direct costs and EUR 30,000 of indirect costs) :*

*EUR 170,000 x 60%+ EUR 30,000 = EUR 132,000 of FCH JU funding*

*4 European participants reimbursed also on the basis of EUR 600,000 of total eligible*

<sup>44</sup> The given examples apply hypothetical percentages. Funding rates are indicated in Art.5 and may vary from one call to another.

costs ( direct and indirect costs) and FCH JU funding of EUR 270,000

Total FCH JU funding: EUR 96,000 + EUR 132,000 + EUR 270,000=EUR 498,000

### List of ICPC economies

<i>Economy</i>	<i>Code</i>	<i>Region</i>	<i>Income group</i>
<i>Afghanistan</i>	<i>AFG</i>	<i>South Asia</i>	<i>Low income</i>
<i>Albania</i>	<i>ALB</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Algeria</i>	<i>DZA</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>American Samoa</i>	<i>ASM</i>	<i>East Asia &amp; Pacific</i>	<i>Upper middle income</i>
<i>Angola</i>	<i>AGO</i>	<i>Sub-Saharan Africa</i>	<i>Lower middle income</i>
<i>Argentina</i>	<i>ARG</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Armenia</i>	<i>ARM</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Azerbaijan</i>	<i>AZE</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Bangladesh</i>	<i>BGD</i>	<i>South Asia</i>	<i>Low income</i>
<i>Barbados</i>	<i>BRB</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Belarus</i>	<i>BLR</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Belize</i>	<i>BLZ</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Benin</i>	<i>BEN</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Bhutan</i>	<i>BTN</i>	<i>South Asia</i>	<i>Low income</i>
<i>Bolivia</i>	<i>BOL</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Bosnia and Herzegovina</i>	<i>BIH</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Botswana</i>	<i>BWA</i>	<i>Sub-Saharan Africa</i>	<i>Upper middle income</i>
<i>Brazil</i>	<i>BRA</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Burkina Faso</i>	<i>BFA</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Burundi</i>	<i>BDI</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Cambodia</i>	<i>KHM</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Cameroon</i>	<i>CMR</i>	<i>Sub-Saharan Africa</i>	<i>Lower middle income</i>
<i>Cape Verde</i>	<i>CPV</i>	<i>Sub-Saharan Africa</i>	<i>Lower middle income</i>
<i>Central African Republic</i>	<i>CAF</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Chad</i>	<i>TCD</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Chile</i>	<i>CHL</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>China</i>	<i>CHN</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Colombia</i>	<i>COL</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Comoros</i>	<i>COM</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>

<i>Congo, Dem. Rep.</i>	<i>ZAR</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Congo, Rep.</i>	<i>COG</i>	<i>Sub-Saharan Africa</i>	<i>Lower middle income</i>
<i>Cook Islands*</i>	<i>COK</i>	<i>East Asia &amp; Pacific</i>	<i>Upper middle income</i>
<i>Costa Rica</i>	<i>CRI</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Côte d'Ivoire</i>	<i>CIV</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Cuba</i>	<i>CUB</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Djibouti</i>	<i>DJI</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>Dominica</i>	<i>DMA</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Dominican Republic</i>	<i>DOM</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Ecuador</i>	<i>ECU</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Egypt, Arab Rep.</i>	<i>EGY</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>El Salvador</i>	<i>SLV</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Equatorial Guinea</i>	<i>GNQ</i>	<i>Sub-Saharan Africa</i>	<i>Upper middle income</i>
<i>Eritrea</i>	<i>ERI</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Ethiopia</i>	<i>ETH</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Fiji</i>	<i>FJI</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Gabon</i>	<i>GAB</i>	<i>Sub-Saharan Africa</i>	<i>Upper middle income</i>
<i>Gambia, The</i>	<i>GMB</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Georgia</i>	<i>GEO</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Ghana</i>	<i>GHA</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Grenada</i>	<i>GRD</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Guatemala</i>	<i>GTM</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Guinea</i>	<i>GIN</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Guinea-Bissau</i>	<i>GNB</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Guyana</i>	<i>GUY</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Haiti</i>	<i>HTI</i>	<i>Latin America &amp; Caribbean</i>	<i>Low income</i>
<i>Honduras</i>	<i>HND</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>India</i>	<i>IND</i>	<i>South Asia</i>	<i>Low income</i>
<i>Indonesia</i>	<i>IDN</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Iran, Islamic Rep.</i>	<i>IRN</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>Iraq</i>	<i>IRQ</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>Jamaica</i>	<i>JAM</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Jordan</i>	<i>JOR</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>Kazakhstan</i>	<i>KAZ</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>

<i>Kenya</i>	<i>KEN</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Kiribati</i>	<i>KIR</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Korea, Dem. Rep.</i>	<i>PRK</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Kyrgyz Republic</i>	<i>KGZ</i>	<i>Europe &amp; Central Asia</i>	<i>Low income</i>
<i>Lao PDR</i>	<i>LAO</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Lebanon</i>	<i>LBN</i>	<i>Middle East &amp; North Africa</i>	<i>Upper middle income</i>
<i>Lesotho</i>	<i>LSO</i>	<i>Sub-Saharan Africa</i>	<i>Lower middle income</i>
<i>Liberia</i>	<i>LBR</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Libya</i>	<i>LYB</i>	<i>Middle East &amp; North Africa</i>	<i>Upper middle income</i>
<i>Macedonia, FYR</i>	<i>MKD</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Madagascar</i>	<i>MDG</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Malawi</i>	<i>MWI</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Malaysia</i>	<i>MYS</i>	<i>East Asia &amp; Pacific</i>	<i>Upper middle income</i>
<i>Maldives</i>	<i>MDV</i>	<i>South Asia</i>	<i>Lower middle income</i>
<i>Mali</i>	<i>MLI</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Marshall Islands</i>	<i>MHL</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Mauritania</i>	<i>MRT</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Mauritius</i>	<i>MUS</i>	<i>Sub-Saharan Africa</i>	<i>Upper middle income</i>
<i>Mexico</i>	<i>MEX</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Micronesia, Fed. Sts.</i>	<i>FSM</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Niue*</i>	<i>NIU</i>	<i>East Asia &amp; Pacific</i>	<i>Upper middle income</i>
<i>Moldova</i>	<i>MDA</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Mongolia</i>	<i>MNG</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Morocco</i>	<i>MAR</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>Mozambique</i>	<i>MOZ</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Myanmar</i>	<i>MMR</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Namibia</i>	<i>NAM</i>	<i>Sub-Saharan Africa</i>	<i>Lower middle income</i>
<i>Nauru*</i>	<i>NRU</i>	<i>East Asia &amp; Pacific</i>	<i>Upper middle income</i>
<i>Nepal</i>	<i>NPL</i>	<i>South Asia</i>	<i>Low income</i>
<i>Nicaragua</i>	<i>NIC</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Niger</i>	<i>NER</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Nigeria</i>	<i>NGA</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Northern Mariana Islands</i>	<i>MNP</i>	<i>East Asia &amp; Pacific</i>	<i>Upper middle income</i>
<i>Oman</i>	<i>OMN</i>	<i>Middle East &amp; North Africa</i>	<i>Upper middle income</i>

<i>Pakistan</i>	<i>PAK</i>	<i>South Asia</i>	<i>Low income</i>
<i>Palau</i>	<i>PLW</i>	<i>East Asia &amp; Pacific</i>	<i>Upper middle income</i>
<i>Panama</i>	<i>PAN</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Papua New Guinea</i>	<i>PNG</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Paraguay</i>	<i>PRY</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Peru</i>	<i>PER</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Philippines</i>	<i>PHL</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Russian Federation</i>	<i>RUS</i>	<i>Europe &amp; Central Asia</i>	<i>Upper middle income</i>
<i>Rwanda</i>	<i>RWA</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Samoa</i>	<i>WSM</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>São Tomé and Príncipe</i>	<i>STP</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Senegal</i>	<i>SEN</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Serbia and Montenegro</i>	<i>YUG</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Seychelles</i>	<i>SYC</i>	<i>Sub-Saharan Africa</i>	<i>Upper middle income</i>
<i>Sierra Leone</i>	<i>SLE</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Solomon Islands</i>	<i>SLB</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Somalia</i>	<i>SOM</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>South Africa</i>	<i>ZAF</i>	<i>Sub-Saharan Africa</i>	<i>Upper middle income</i>
<i>Sri Lanka</i>	<i>LKA</i>	<i>South Asia</i>	<i>Lower middle income</i>
<i>St. Kitts and Nevis</i>	<i>KNA</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>St. Lucia</i>	<i>LCA</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>St. Vincent and the Grenadines</i>	<i>VCT</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Sudan</i>	<i>SDN</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Suriname</i>	<i>SUR</i>	<i>Latin America &amp; Caribbean</i>	<i>Lower middle income</i>
<i>Swaziland</i>	<i>SWZ</i>	<i>Sub-Saharan Africa</i>	<i>Lower middle income</i>
<i>Syrian Arab Republic</i>	<i>SYR</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>Tajikistan</i>	<i>TJK</i>	<i>Europe &amp; Central Asia</i>	<i>Low income</i>
<i>Tanzania</i>	<i>TZA</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Thailand</i>	<i>THA</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Timor-Leste</i>	<i>TMP</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>Togo</i>	<i>TGO</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Tonga</i>	<i>TON</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Trinidad and Tobago</i>	<i>TTO</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Tunisia</i>	<i>TUN</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>

<i>Turkmenistan</i>	<i>TKM</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Tuvalu*</i>	<i>TUV</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Uganda</i>	<i>UGA</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Ukraine</i>	<i>UKR</i>	<i>Europe &amp; Central Asia</i>	<i>Lower middle income</i>
<i>Uruguay</i>	<i>URY</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Uzbekistan</i>	<i>UZB</i>	<i>Europe &amp; Central Asia</i>	<i>Low income</i>
<i>Vanuatu</i>	<i>VUT</i>	<i>East Asia &amp; Pacific</i>	<i>Lower middle income</i>
<i>Venezuela, RB</i>	<i>VEN</i>	<i>Latin America &amp; Caribbean</i>	<i>Upper middle income</i>
<i>Vietnam</i>	<i>VNM</i>	<i>East Asia &amp; Pacific</i>	<i>Low income</i>
<i>West Bank and Gaza</i>	<i>WBG</i>	<i>Middle East &amp; North Africa</i>	<i>Lower middle income</i>
<i>Yemen, Rep.</i>	<i>YEM</i>	<i>Middle East &amp; North Africa</i>	<i>Low income</i>
<i>Zambia</i>	<i>ZMB</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>
<i>Zimbabwe</i>	<i>ZWE</i>	<i>Sub-Saharan Africa</i>	<i>Low income</i>

## **Article II.19 of FCH JU GA – Interest yielded by the pre-financing provided by the FCH JU**

For more information, please refer to the section dedicated to Article II.17 ( point c: Interest generated by pre-financing) in this guide.

## **SECTION 2: GUARANTEES AND RECOVERIES**

### **Article II.20 of FCH JU GA - Financial responsibility**

#### **Ex ante verification of the financial capacity of beneficiaries and financial guarantees**

In accordance with Art 104 of the *FCH JU Financial Rules*, the payment of a pre-financing is subject to a verification of the financial capacity of the coordinator and the other beneficiaries. As a result of the ex-ante verification of the financial capacity certain protection measures such as guarantees (to be provided from a bank, or from the mother company, or from an affiliated entity, etc.) or reduction of the pre-financing may be requested.

In FCH JU, because of the absence of the Guarantee Fund coverage, the financial verification is done for coordinators and all participants requesting pre-financing, except for public bodies, international organisations, and participants covered by Member States Guarantees, or Associated Countries State Guarantees.

## Article II.21 of FCH JU GA – Reimbursement and recoveries

### 1. During the duration of the project

If, following a request from the FCH JU, a beneficiary does not reimburse any requested amount within 30 days after receipt of the request and the consortium accepts to continue the project without this beneficiary:

- If there is financial guarantee for this particular beneficiary, it shall be executed.
- The FCH JU shall issue against this beneficiary a recovery order (debit note)

*Example:*

- *The FCH JU terminates the participation of a beneficiary because it is declared bankrupt.*
- *Termination shall be notified to the beneficiary, with a copy to the coordinator and shall take effect on the date indicated in the notification and at least 30 days after its receipt by the beneficiary.*
- *The beneficiary whose participation is terminated has to submit all required reports. In the absence of receipt of such documents within the above time-limits, the FCH JU may, after providing 30-day notice in writing of the non-receipt of such documents, decide not to take into account any further cost claims and, where appropriate, require the reimbursement of any pre-financing due by the beneficiary.*
- *The FCH JU shall establish the debt owed by the beneficiary whose participation is terminated.*
- *If the consortium accepts to continue the project, this beneficiary shall transfer the amount due to the coordinator as requested by the FCH JU within 30 days. The FCH JU shall send a copy of such a request to the coordinator. The coordinator shall inform the FCH JU within 10 days after the end of this time-limit whether the amount has been transferred to it.*

### 2. After termination or completion of any grant agreement

If an amount due to the FCH JU has to be recovered, after the end of the project (at the final payment or as a result of an audit), the FCH JU shall issue against this beneficiary a **recovery order** to its benefit. If payment has not been made by the due date:

The amount may be recovered by offsetting against any sums (excluding pre-financing) due by the FCH JU to the beneficiary.

*Example:*

- *At the end of a project, the FCH JU makes a final payment corresponding to the amount accepted for the last period plus any adjustment needed.*

- *Where the amount of the FCH JU contribution is less than any amount already paid to the consortium, the FCH JU shall recover the difference. The FCH JU shall request this difference by means of a recovery order issued against each beneficiary concerned and a debit note will be sent to the beneficiary.*
- *If the payment has not been made by the due date indicated on the debit note, the FCH JU, after informing the beneficiary, may offset the sums owed to the FCH JU against any sums it owes to the beneficiary.*

## SECTION 3: CONTROLS AND SANCTIONS

### Article II.22 of FCH JU GA – Financial audits and controls

#### **1. Purpose of the audit**

The FCH JU may, at any time during the implementation of the project, and **up to five years** after the end of the project, arrange for financial audits to be carried out.

The audits may cover:

- financial aspects
- systemic aspects
- other aspects such as accounting and management principles.

#### **2. Beneficiaries' rights and obligations**

In order to permit a complete, true and fair verification that the project and the grant are (have been) properly managed and performed, beneficiaries are required to:

- keep the originals, or in exceptional cases, where the national legislation accepts or contemplates this possibility, duly authenticated copies – including electronic copies – of all documents relating to the grant agreement for up to five years from the end of the project.

In principle:

- documents received should be kept on the medium on which they arrived,
- documents created should be kept on the medium on which they were compiled.

This implies that documents received or created on paper form should be kept in their original paper form. Documents received or created only in electronic form should be kept in their original electronic form. No paper copy is required of original electronic documents.

For cases where the relevant national authorities/law allows the beneficiary to destroy the original documents for the transfer to other reliable support, this support is considered as a duly authenticated copy.

- ensure that the FCH JU, and/or any external body(ies) authorised by it, have on-the-spot access at all reasonable times, notably to the beneficiary's offices where the project is being or has been carried out, to its computer data, to its accounting data and to all the information needed to carry out those audits, including information on individual salaries of persons involved in the project. They shall ensure that the information is readily available on the spot at the moment of the audit and, if so requested, that data be handed over in an appropriate form;
- make available directly to the FCH JU all the detailed data that it may request;
- ensure that the rights of the FCH JU, the Commission and the European Court of Auditors to carry out audits are extended to the right to carry out any such audit or control on any third party whose costs are reimbursed in full or in part by the FCH JU contribution, on the same terms and conditions;
- ensure the right of the FCH JU to interview people working or having worked on the FCH JU project.

### **3. Audits may be carried out by:**

- Representatives duly authorised by the FCH JU (including external auditors appointed by the FCH JU);
- The Commission (its departments – including OLAF);
- The European Court of Auditors (by its own departments or by any of its duly authorised representatives).

### **4. Reports**

- A provisional report shall be drawn up on the basis of the findings made during the financial audit and sent to the beneficiary audited.
- The beneficiary may make observations within one month of receiving the report. The FCH JU may decide not to take into account observations or documents sent after that.
- The final report shall be sent within two months of expiry of this deadline. On the basis of the conclusions of the audit, the FCH JU may issue recovery orders and apply sanctions including liquidated damages.

### **5. Extrapolation**

Following an audit, auditors will indicate in the final report whether the possible errors detected during the audit are of a systematic nature, i.e. if they are such that it is reasonable to assume that they affect not only the grant agreement actually audited, but also other GA where the audited entity participates.

Extrapolation means in this document the process by which 'systematic' errors found on audited cost claims are 'extrapolated' to all the other non-audited FCH JU claims of the same audited beneficiary.

If there are errors of systematic nature, the letter of conclusion accompanying the final audit

report will require the beneficiaries to apply the findings of the audit and to correct the errors in all FCH JU projects by re-submitting within a given deadline the financial statements of all projects where the audited entity participates. These revised financial statements should take into account the conclusions of the audit. The beneficiary will have the possibility of explaining why the audit findings should not be extrapolated to other GA. Should the beneficiary not react, the FCH JU may suspend all payments owed to this beneficiary until the revised cost statements are submitted, and follow-up audits of the beneficiaries' GA may be carried out by the FCH JU.

The calculation of the actual debt can be made on the basis of one of the following methods:

- Method 1: where the audit has identified the existence of a systematic error, the beneficiary shall **precisely recalculate the costs affected by the systematic error** in each of the non-audited projects/periods and report the corresponding adjustments to the FCH JU in due form.
- Method 2: however, with the aim to simplify extrapolation the beneficiary may choose to adjust **the individual cost category** (personnel, subcontracting, other costs, indirect costs,..) affected by the systematic error by the **application of a flat-rate correction**. The flat-rate corresponds to the average of the individual systematic error in a given cost category identified in the audited projects/periods.
- Method 3: the beneficiary may also opt to apply an **overall flat rate** correction to the total project costs of each of the non-audited projects/periods. In these cases, the flat rate corresponds to the average rate of the individual systematic errors identified in the audited projects in relation to the total project costs.

The flat-rate(s) under method 2 and 3 will be indicated by the FCH JU in the letter of Conclusion of the audit. The beneficiary may carry out – at its own expense - further audits on non-audited periods/contracts. These further audits must be performed by an external, independent auditor and must be in accordance with the FCH JU's own approach as set out in the audit report. Should the audit provide reasonable assurance on the method used, the FCH JU may accept different flat-rates resulting from such audits. In any event, the FCH JU reserves the right to verify that extrapolation has been carried out in compliance with one of the methods described above, and to carry out further targeted audits to corroborate the average error rate.

## Article II.23 of FCH JU GA - Technical audits and reviews

### 1. Purpose of the audit

The FCH JU may, at any time during the implementation of the project, and **up to five years after the end of the project**, arrange for technical and ethical audits to be carried out.

- The technical audit may cover:
  - ✓ Scientific aspects;
  - ✓ Technological aspects;
  - ✓ Other aspects relating to the proper execution of the project and the grant agreement.

- The technical audit or review shall assess:
  - ✓ the degree of fulfilment of the project work plan for the relevant period and of the related deliverables,
  - ✓ the continued relevance of the objectives and breakthrough potential with respect to the scientific and industrial state of the art,
  - ✓ the resources planned and utilized in relation to the achieved progress, in a manner consistent with the principles of economy, efficiency and effectiveness,
  - ✓ the management procedures and methods of the project,
  - ✓ the beneficiaries' contributions and integration within the project,
  - ✓ the expected potential impact in economic, competition and social terms, and the beneficiaries' plan for the use and dissemination of foreground.
  
- The ethics audit shall assess if the project has been carried out in accordance with fundamental ethical principles.

## **2. Auditors**

Audits may be carried out by the FCH JU assisted by external scientific or technological experts.

## **3. Beneficiaries' rights and obligations**

- The FCH JU shall - prior to the evaluation task - communicate the identity of the appointed experts. The beneficiary shall have the right to refuse the participation of a particular external scientific or technological expert on grounds of commercial confidentiality.
- Audit and reviews may be carried out remotely at the expert's home or place of work or involve sessions with project representatives either at the FCH JU premises or at the premises of beneficiaries.
- The FCH JU or the expert may have access to the locations and premises where the work is being carried out, and to any document concerning the work.
- The beneficiary shall make available directly to the FCH JU all detailed information and data that may be requested by it or the external scientific or technological expert with a view to verifying that the project is being/has been properly implemented and performed in accordance with the grant agreement.

## **4. Reports**

- A report shall be drawn up on the outcome of the audits and reviews and sent to the beneficiary.
- The beneficiary may make observations within one month of receiving the report. The FCH JU may decide not to take into account observations or documents sent after that deadline.
- On the basis of the experts' formal recommendations the FCH JU will inform the coordinator of its decision

- ✓ to accept or reject the deliverables;
- ✓ to allow the project to continue without modification of Annex I to FCH JU GA or with minor modifications;
- ✓ to consider that the project can only continue with major modifications;
- ✓ to initiate the termination of the grant agreement or of the participation of any beneficiary according to Article II.37 of FCH JU GA,
- ✓ to issue a recovery order regarding all or part of the payments made by the FCH JU and to apply any applicable sanction.

## Article II.24 of FCH JU GA - Liquidated damages

The FCH JU shall claim liquidated damages<sup>45</sup> from a beneficiary who is found to have overstated expenditure and who has consequently received an unjustified financial contribution from the FCH JU. In FCH JU Programme liquidated damages will be applied systematically by the FCH JU in case of overstatement. Overstatement may result from errors, misunderstanding or misinterpretation of the provisions of the FCH JU GA. Overstatement is a factual finding and the intention to overstate is irrelevant.

### 1. Calculation of liquidated damages

The amount of liquidated damages is calculated according to the following formula:

**Liquidated damages = unjustified FCH JU financial contribution x (overstated amount / total FCH JU financial contribution claimed)**

In addition, the calculation of any liquidated damages only takes into consideration the beneficiary's claim for the FCH JU contribution for that reporting period(s). It is not calculated in relation to the entire FCH JU contribution.

*Example:*

*The eligible costs declared by a beneficiary amount to:  
EUR 1,000,000 as direct costs (for an RTD project funded at a 40%<sup>46</sup> ratio) and  
EUR 200,000 as indirect costs (flat rate)*

*The FCH JU contribution claimed for that period was EUR 600,000*

*Direct cost: EUR 1,000,000 x 40% = EUR 400,000*

*Indirect costs: EUR 1,000,000 x 20%<sup>47</sup> = EUR 200,000*

*During an audit, it was found to have overstated direct costs for an amount of EUR 200,000 and consequently overstated indirect costs for an amount of EUR 40,000.*

<sup>45</sup> In exceptional cases, the FCH JU may refrain from claiming liquidated damages.

<sup>46</sup> The given examples apply hypothetical percentage. Funding rates are indicated in Art.5 and may vary from one call to another.

<sup>47</sup> excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiaries.

*Beneficiary has received an unjustified financial contribution from the FCH JU of EUR 120,000 (EUR 80,000 + EUR 40,000)*

*The amount of liquidated damages the FCH JU shall claim is:  
EUR 120,000 (EUR 240,000 / EUR 600,000) = EUR 48,000*

## 2. Modalities

Liquidated damages are due in addition to the recovery of the unjustified financial contribution from the beneficiary.

*Example:*

*If liquidated damages are applied to the beneficiary mentioned in point 1, that beneficiary will have to reimburse to the FCH JU the total amount of:*

*Unjustified financial contribution (a): EUR 120,000*

*Liquidated damages (b): EUR 48,000*

*Total amount (a) + (b): EUR 168,000*

In order to respect the contradictory principle, the beneficiary shall be given a written notice period of 30 calendar days to provide the FCH JU with its observations (Article II.24.3 of FCH JU GA).

The procedure for payment of liquidated damages is the same as the one concerning the reimbursement of unjustified financial contribution including the provisions relating to default interest in case of late payment.

### Cases where liquidated damages may not be applied

In exceptional cases, the FCH JU may refrain from claiming liquidated damages. The FCH JU may decide in duly justified cases and if appropriate under the principle of proportionality not to request liquidated damages. The following cases could be considered:

- a) When the consortium submits financial statements at the end of a period and the FCH JU corrects an overstatement of expenditure before the payment. In this case there would be no grounds for liquidated damages, as the subsequent FCH JU payment would not have taken into account any overstated amount (in this case also the beneficiary would have corrected its form C following the FCH JU comments). Here in fact the beneficiary would not receive any unjustified financial contribution.
- b) When the FCH JU makes an interim payment following a financial statement submitted at the end of a period, but the financial statement is later corrected by the beneficiary at its own initiative. When the beneficiary modifies "*motu proprio*" a previous financial statement, liquidated damages should not usually be applied. If however it is the FCH JU who finds the overstatement following the payment, liquidated damages will be applied. A correction made by the beneficiary after the announcement of an audit may not be considered as "*motu proprio*".
- c) When, following an audit in a particular project, a beneficiary at its own initiative corrects

costs declared within the framework of other projects (extrapolation). In this case, the FCH JU could decide not to apply liquidated damages.

## **Article II.25 of FCH JU GA – Financial penalties**

**In addition** to liquidated damages, any beneficiary found to have seriously failed to meet its obligations under the FCH JU GA shall be liable to financial penalties of:

- between 2% and 10% of the value of the FCH JU contribution received by that beneficiary;
- between 4% and 20% of the value of the FCH JU contribution received by that beneficiary in the event of a repeated offence in the five years following the first infringement.

*Example:*

*It is determined that a beneficiary has seriously failed to meet its obligations under the FCH JU GA.*

*According to the report(s) to the FCH JU on the distribution of the FCH JU financial contribution between beneficiaries, this beneficiary has received a FCH JU financial contribution of EUR 700,000.*

*According to the audit's findings, it is the first serious failure of this beneficiary's in actions supported by the FCH JU in the last five years.*

*This beneficiary may be subject to additional financial penalties of between EUR 14,000 and EUR 70,000= (2%-10%) of EUR 700,000.*

*This is in addition to the recovery of the amount overpaid (unjustified financial contribution) and the liquidated damages for overcharging.*

The provision also applies to beneficiaries who have been guilty of making false declarations. In both cases, the beneficiary will also be excluded from all grants financed by the FCH JU for a maximum period of two years from the date the infringement is established.

## **FINAL PROVISIONS**

### **Article II.39 of FCH JU GA Force majeure**

The GA explicitly states in Article II.39 that "*...Where beneficiaries cannot fulfil their obligations to execute the project due to force majeure, remuneration for accepted eligible costs incurred may be made only for tasks which have actually been executed...*"

If a meeting has not taken place because of bad weather conditions, (e.g. ashes from volcanoes), the cost of the flight tickets (which are normally reimbursed by air companies), hotel reservations and meeting rooms for non-accomplished tasks would not be eligible.

If the meeting took place but the members cannot go back and have to spend more money on accommodation etc., then in that case the extra costs incurred could be eligible, if they fulfil the conditions of Article II.14 (they were incurred for the sole purpose of the project, etc.).