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I

(Legislative acts)

DECISIONS

DECISION No 553/2014/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 May 2014****on the participation of the Union in a Research and Development Programme jointly undertaken by several Member States aimed at supporting research and development performing small and medium-sized enterprises****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 185, and the second paragraph of Article 188, thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) In its Communication of 3 March 2010 entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth' (the 'Europe 2020 strategy') the Commission emphasised the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union. Both the European Parliament and the Council have endorsed this strategy.
- (2) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽³⁾ established Horizon 2020 – The Framework Programme for Research and Innovation (2014-2020) ('Horizon 2020'). Horizon 2020 aims at achieving a greater impact with respect to research and innovation by contributing to the strengthening of public-public partnerships, including through Union participation in programmes undertaken by several Member States in accordance with Article 185 of the Treaty on the Functioning of the European Union.
- (3) Public-public partnerships should aim to develop closer synergies, increase coordination and avoid unnecessary duplication with Union, international, national and regional research programmes, and should fully respect the Horizon 2020 general principles, in particular those relating to openness and transparency. Moreover, open access to scientific publications should be ensured.

⁽¹⁾ Opinion of 10 December 2013 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and decision of the Council of 6 May 2014.

⁽³⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

- (4) By Decision No 743/2008/EC of the European Parliament and of the Council ⁽¹⁾, the Community decided to make a financial contribution to Eurostars, a joint research and development programme undertaken by all Member States and five participating countries in the framework of Eureka, an intergovernmental initiative established in 1985 with the objective of promoting cooperation in industrial research ('Eurostars').
- (5) In April 2012, the Commission communicated to the European Parliament and the Council a report on the interim evaluation of Eurostars carried out by a Group of Independent Experts two years after the beginning of the programme. The overall opinion of the experts was that Eurostars meets its objectives, adds value to European research and development performing small and medium-sized enterprises ('SMEs') and should be continued after 2013. Eurostars is also considered to meet a number of genuine needs of SMEs engaged in research and development; it has attracted a large number of applications, with the budget for projects eligible for funding exceeding the initial budget. A number of recommendations for improvement were made, mainly addressing the need of further integration of national programmes and improvements in the operational performance in order to reach shorter time-to-contract and more transparency in the procedures.
- (6) The definition of SME provided for in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises ⁽²⁾ should apply.
- (7) In accordance with Council Decision 2013/743/EU ⁽³⁾, support may be provided to an action building on Eurostars and reorienting it along the lines stated in its interim evaluation.
- (8) The second Research and Development Programme jointly undertaken by several Member States aimed at supporting research and development performing small and medium-sized enterprises ('Eurostars-2'), aligned with the Europe 2020 strategy, its flagship initiative 'Innovation Union' and the Commission Communication of 17 July 2012 entitled 'A Reinforced European Research Area Partnership for Excellence and Growth', will aim to supporting research and development performing SMEs by co-financing their market oriented research projects in any field. As such, and in combination with the activities under the 'Leadership in Enabling and Industrial Technologies' objective set out in Horizon 2020, it will contribute to the goals of the Industrial Leadership part of that programme to speed-up development of the technologies and innovations that will underpin tomorrow's businesses and help innovative European SMEs to grow into world-leading companies. As part of the improvements from the previous Eurostars programme, Eurostars-2 should head towards shorter time-to-grant, stronger integration and lean, transparent and more efficient administration to the ultimate benefit of research and development performing SMEs. To keep the bottom-up nature and the business-driven agenda with its main focus on market potential from the previous Eurostars programme is key to the success of Eurostars-2.
- (9) In order to take into account the duration of Horizon 2020, calls for proposals under Eurostars-2 should be launched at the latest by 31 December 2020. In duly justified cases calls for proposals may be launched by 31 December 2021.
- (10) The Eureka Ministerial Conference on 22 June 2012 in Budapest endorsed a strategic vision for Eurostars-2 ('Budapest Document'). The ministers committed to support the continuation of Eurostars after its termination in 2013 for the period covered by Horizon 2020. This will consist of a reinforced partnership addressing the recommendations of the interim evaluation of Eurostars. The Budapest Document sets out two main objectives for Eurostars-2. Firstly, a structural-oriented objective to deepen the synchronisation and alignment of the national research programmes in the field of funding, which is a central element towards the realisation of the European Research Area by the member countries. Secondly a content-related objective to support research and development performing SMEs engaging in transnational research and innovation projects. The Budapest Document invites the Union to participate in Eurostars-2.

⁽¹⁾ Decision No 743/2008/EC of the European Parliament and of the Council of 9 July 2008 on the Community's participation in a research and development programme undertaken by several Member States aimed at supporting research and development performing small and medium-sized enterprises (OJ L 201, 30.7.2008, p. 58).

⁽²⁾ OJ L 124, 20.5.2003, p. 36.

⁽³⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

- (11) For the purpose of simplification, administrative burdens should be reduced for all parties. Double audits and disproportionate documentation and reporting should be avoided. When audits are conducted, the specificities of the national programmes should be taken into account, as appropriate.
- (12) Audits of recipients of Union funds provided under Eurostars-2 should be carried out in accordance with Regulation (EU) No 1291/2013.
- (13) The Participating States intend to contribute to the implementation of Eurostars-2 during the period covered by Eurostars-2 (2014-2024).
- (14) Eurostars-2 activities should be in line with the objectives and bottom-up principles of Horizon 2020 and with the general principles and conditions laid down in Article 26 of Regulation (EU) No 1291/2013.
- (15) A ceiling should be established for the Union's financial contribution to Eurostars-2 for the duration of the Horizon 2020. Within the limits of that ceiling, there should be flexibility regarding the Union's contribution, which should be at least one third but no more than half of the contribution of the Participating States in order to ensure a critical mass necessary to satisfy the demand from projects eligible for financial support, to achieve a high leverage effect and ensure stronger integration of national research programmes of the Participating States.
- (16) In accordance with the objectives of Regulation (EU) No 1291/2013, any Member State and any country associated to Horizon 2020 should be entitled to participate in Eurostars-2.
- (17) Any Eureka Member or country associated to Eureka that is not a Member State or a country associated to Horizon 2020 may become a Eurostars-2 partner country.
- (18) The Union's financial contribution should be subject to formal commitments from the Participating States to contribute to the implementation of Eurostars-2 and to the fulfilment of those commitments. Financial support under Eurostars-2 should mainly take the form of grants to projects selected following calls for proposals launched under Eurostars-2. In order to meet the objectives of Eurostars-2, the Participating States shall ensure sufficient financial contributions to fund a reasonable number of proposals selected through each call.
- (19) The joint implementation of Eurostars-2 requires an implementation structure. The Participating States have agreed on designating the Eureka Secretariat ('ESE') as the implementation structure for Eurostars-2. ESE is an international non-profit association established under Belgian law in 1997 by the Eureka countries and, since 2008, is responsible for the implementation of Eurostars. ESE's role goes beyond the implementation of Eurostars, being at the same time the secretariat of the Eureka initiative, with its own governance linked to the management of Eureka projects outside of Eurostars. The Union, represented by the Commission, is a founding member of the Eureka initiative and full member of the Eureka Secretariat association.
- (20) In order to achieve the objectives of Eurostars-2, ESE should be in charge of the organisation of the calls for proposals, the verification of the eligibility criteria, the peer-review evaluation and the selection and the monitoring of projects, as well as the allocation of the Union contribution. The evaluation of proposals should be performed centrally by independent external experts under the responsibility of ESE following calls for proposals. The projects' ranking list should be binding for the Participating States as regards the allocation of funding from the Union's financial contribution and from contribution from Participating States.

- (21) Overall, Eurostars-2 should demonstrate clear progress towards further alignment and synchronisation of the national research and innovation programmes as a truly joint programme featuring stronger scientific, management and financial synchronisation. Stronger scientific integration should be achieved through the common definition and implementation of activities and should ensure the excellence and the high impact of the projects selected. Management integration should ensure further improvement of operational excellence and accountability for the programme. Stronger financial integration should be based on overall and yearly adequate financial contribution by the States participating in Eurostars-2 and a high degree of national synchronisation. This should be achieved through a progressive harmonisation of national funding rules.
- (22) The Union's financial contribution should be managed in accordance with the principle of sound financial management and with the rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾ and Commission Delegated Regulation (EU) No 1268/2012 ⁽²⁾.
- (23) In order to protect the Union's financial interests, the Commission should have the right to reduce, suspend or terminate the Union's financial contribution if Eurostars-2 is implemented inadequately, partially or late, or if the Participating States do not contribute, or contribute partially or late, to the financing of Eurostars-2. Those rights should be provided for in the delegation agreement to be concluded between the Union and the ESE.
- (24) Participation in indirect actions funded by Eurostars-2 is subject to Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽³⁾. However, due to the specific operating needs of Eurostars-2, it is necessary to provide for derogations from that Regulation in accordance with Article 1(3) of that Regulation.
- (25) In order to facilitate the participation of SMEs which are more used to national channels and which would otherwise carry out research activities only within their national boundaries, the Eurostars-2 financial contribution should be provided in accordance with the well-known rules of their national programmes and implemented through a funding agreement directly administered by the national authorities, combining Union funding with the corresponding national funding. A derogation should therefore be made from Article 15(9), Articles 18(1), 23(1), (5) to (7), 28 to 34 of Regulation (EU) No 1290/2013.
- (26) Calls for proposals by Eurostars-2 should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.
- (27) The Union's financial interests should be protected by means of proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (28) The Commission, in cooperation with the Participating States, should conduct an interim evaluation assessing in particular the quality and efficiency of Eurostars-2 and progress towards the objectives set, as well as a final evaluation and prepare a report on those evaluations.
- (29) Upon request from the Commission, ESE and the Participating States should submit any information which the Commission needs to include in the reports on the evaluation of Eurostars-2.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 (OJ L 362, 31.12.2012, p. 1).

⁽³⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

- (30) Since the objectives of this Decision, namely to support transnational research activities performed by research-intensive SMEs and to contribute to the integration, alignment and synchronisation of national research funding programmes cannot be sufficiently achieved by the Member States due to lack of transnational dimension and of complementarity and interoperability of national programmes but can rather, by reason of the scale and impact of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision lays down rules on the participation of the Union in the second Research and Development Programme jointly undertaken by several Member States aimed at supporting research and development performing small and medium-sized enterprises ('Eurostars-2') and the conditions for its participation.

Article 2

Definitions

For the purpose of this Decision the following definitions apply:

- (1) 'SME' means a micro-, small- and medium-sized enterprises, as defined in Recommendation 2003/361/EC;
- (2) 'research and development performing SME' means an SME which meets at least one of the following conditions:
 - (a) reinvests at least 10 % of its turnover to research and development activities;
 - (b) dedicates at least 10 % of its full-time equivalents to research and development activities;
 - (c) has at least five full-time equivalents (for SME with no more than 100 full-time equivalents) for research and development activities; or
 - (d) has 10 full-time equivalents (for SME with over 100 full-time equivalents) for research and development activities.

Article 3

Objectives

Eurostars-2 shall pursue the following objectives:

- (1) promote research activities that comply with the following conditions:
 - (a) the activities are carried out by transnational collaboration of research- and development performing SMEs among themselves or including other actors of the innovation chain (e.g. universities, research organisations);
 - (b) results of activities are expected to be introduced into the market within two years of the completion of an activity;
- (2) increase the accessibility, efficiency and efficacy of public funding for SMEs in Europe by aligning, harmonising and synchronising the national funding mechanisms of Participating States;
- (3) promote and increase the participation of SMEs without previous experience in transnational research.

*Article 4***Participation in and partnership with Eurostars-2**

1. The Union shall participate in Eurostars-2 jointly undertaken by Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom, (the "Participating States"), in accordance with the conditions laid down in this Decision.
2. Any Member State other than those listed in paragraph 1 and any other country associated to Horizon 2020 may participate in Eurostars-2 provided it fulfils the condition laid down in point (c) of Article 6(1) of this Decision. If it fulfils the condition laid down in point (c) of Article 6(1), it shall be regarded as a Participating State for the purposes of this Decision.
3. Any Eureka Member or country associated to Eureka that is not a Member State or a country associated to Horizon 2020 may become a Eurostars-2 partner country provided it fulfils the condition set out in point (c) of Article 6(1). Those Eureka Members or countries associated to Eureka that fulfil the condition laid down in point (c) of Article 6(1), shall be regarded as partner countries for the purposes of this Decision. Legal entities from those partner countries shall not be eligible for the Union's financial contribution under Eurostars-2.

*Article 5***Union's financial contribution**

1. The Union financial contribution, including EFTA appropriations, to Eurostars-2 shall be up to EUR 287 000 000. The Union's financial contribution shall be paid from the appropriations in the general budget of the Union allocated to the relevant parts of the Specific Programme, implementing Horizon 2020, established by Decision 2013/743/EU, in accordance with point (c)(vi) of Article 58(1), and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012, and in particular from appropriations under the heading "Innovation in SMEs" under Part II.
2. Without exceeding the amount laid down in paragraph 1, the Union's contribution shall be at least one third of the contributions of the Participating States referred to in point (a) of Article 7(1). It shall cover operational costs, including the costs of the evaluation of proposals, and administrative costs. Where during the lifetime of Eurostars-2 the rate of the Union's contribution needs to be adapted, the Union's contribution may go up to a maximum of half of the contributions of the Participating States referred to in point (a) of Article 7(1).
3. An amount not exceeding 4 % of the Union's financial contribution referred to in paragraph 1 may be used to contribute to the administrative costs of Eurostars-2. Participating States shall cover the national administrative costs necessary for the implementation of Eurostars-2.

*Article 6***Conditions for the Union's financial contribution**

1. The Union's financial contribution shall be conditional upon the following:
 - (a) the demonstration by the Participating States that they have set up Eurostars-2 in accordance with the objectives laid down in Article 3;
 - (b) the designation by the Participating States or organisations designated by Participating States, of the ESE, as the structure responsible for implementing Eurostars-2 and for receiving, allocating and monitoring the Union's financial contribution;
 - (c) the commitment by each Participating State to contribute to the financing of Eurostars-2;

- (d) the demonstration by ESE of its capacity to implement Eurostars-2, including receiving, allocating and monitoring the Union's financial contribution, in the framework of indirect management of the Union budget in accordance with Articles 58, 60 and 61 of Regulation (EU, Euratom) No 966/2012; and
 - (e) the establishment of a governance model for Eurostars-2 in accordance with Annex II.
2. During the implementation of Eurostars-2, the Union's financial contribution shall also be conditional upon:
- (a) the implementation by the ESE of Eurostars-2's objectives set out in Article 3 and activities set out in Annex I, in accordance with the rules for participation and dissemination referred to in Article 8;
 - (b) the maintenance of an appropriate and efficient governance model in accordance with Annex II;
 - (c) compliance by ESE with the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012;
 - (d) the effective payment by the Participating States of the financial contribution to all participants in Eurostars-2 projects selected for funding following the calls for proposals launched under Eurostars-2, fulfilling the commitments referred to in point (c) of paragraph 1 of this Article;
 - (e) allocation of the funding from the national budgets for Eurostars-2 projects and the Union's financial contribution in accordance with the ranking lists of the projects; and
 - (f) the demonstration of clear progress in the scientific, managerial and financial cooperation by the establishment of minimum operational performance targets and milestones for the implementation of Eurostars-2.

Article 7

Contribution from Participating States

1. Contribution from the Participating States shall consist of the following financial contributions:
- (a) co-financing of the selected Eurostars-2 projects through relevant national forms of funding, mainly through grants. The Commission may use the established grant equivalence rules for the valuation of the contributions from the Participating States in forms other than grants;
 - (b) financial contribution to the administrative costs of Eurostars-2 not covered by the Union contribution as set out in Article 5(3).
2. Each Participating State shall designate a National Funding Body (NFB) to administer financial support to the national participants in Eurostars-2 in accordance with Article 8.

Article 8

Rules for participation and dissemination

1. For the purposes of Regulation (EU) No 1290/2013, the ESE shall be considered to be a funding body.
2. By way of derogation from Article 15(9) of Regulation (EU) No 1290/2013, the NFBs, under the coordination of the ESE, shall verify the financial capacity of all applicants for funding under Eurostars-2.

3. By way of derogation from Article 18(2) of Regulation (EU) No 1290/2013, grant agreements with beneficiaries of indirect actions under Eurostars-2 shall be signed by the NFBs concerned.

4. By way of derogation from Article 23(1), (5), (6) and (7) and Articles 28 to 34 of Regulation (EU) No 1290/2013, the funding rules of the participating national programmes shall apply to Eurostars-2 grants administered by the NFBs.

Article 9

Implementation of Eurostars-2

1. Eurostars-2 shall be implemented on the basis of annual work plans.
2. Eurostars-2 shall provide financial support mainly in the form of grants to participants following calls for proposals.

Article 10

Agreements between the Union and the ESE

1. Subject to a positive *ex-ante* assessment of the ESE in accordance with Article 61(1) of Regulation (EU, Euratom) No 966/2012, the Commission, on behalf of the Union, shall conclude a delegation agreement and annual transfer of funds agreements with the ESE.

2. The delegation agreement referred to in paragraph 1 shall be concluded in accordance with Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012, and in accordance with Article 40 of Delegated Regulation (EU) No 1268/2012. It shall also set out the following:

- (a) the requirements for the ESE regarding the performance indicators set out in Annex II to Decision 2013/743/EU;
- (b) the requirements for the ESE's contribution to the monitoring referred to in Annex III to Decision 2013/743/EU;
- (c) specific performance indicators for the functioning of the ESE in respect of Eurostars-2;
- (d) requirements for the ESE regarding the provision of information on administrative costs and of detailed figures concerning the implementation of Eurostars-2;
- (e) arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations;
- (f) an obligation for the ESE to sign bilateral agreements with the NFBs before any transfers of the Union's financial contribution take place, such bilateral agreements laying down the minimum operational performance targets and milestones for the implementation of Eurostars-2;
- (g) provisions for the publication of calls for proposals by Eurostars-2, in particular on the single portal for participants, as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.

Article 11

Termination, reduction or suspension of the Union's financial contribution

1. If Eurostars-2 is not implemented or is implemented inadequately, partially or late, the Commission may terminate, proportionately reduce, or suspend the Union's financial contribution in line with the actual implementation of Eurostars-2.

2. If the Participating States do not contribute, contribute partially or late to the financing of Eurostars-2, the Commission may terminate, proportionately reduce, or suspend the Union's financial contribution, taking into account the amount of funding allocated by the Participating States to implement Eurostars-2.

Article 12

Ex-post audits

1. ESE shall ensure that *ex-post* audits of expenditure on indirect actions are carried out by the respective NFBs in accordance with Article 29 of Regulation (EU) No 1291/2013.
2. The Commission may decide to carry out itself the audits referred to in paragraph 1. In such cases, it shall do so in accordance with the applicable rules, in particular the provisions of Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

Article 13

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Decision are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The ESE shall grant Commission staff and other persons authorised by it, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽²⁾, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement or decision or a contract funded under this Decision.
4. Contracts, grant agreements and grant decisions resulting from the implementation of this Decision shall contain provisions expressly empowering the Commission, the Court of Auditors, OLAF and the ESE to conduct such audits and investigations, in accordance with their respective competences.
5. In implementing Eurostars-2, the Participating States shall take the legislative, regulatory, administrative or other measures necessary to protect the Union's financial interests, in particular to ensure full recovery of any amounts due to the Union in accordance with Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

Article 14

Communication of information

1. At the request of the Commission, the ESE shall send any information necessary for the preparation of the reports referred to in Article 15.
2. The Participating States shall submit to the Commission, through the ESE, any information requested by the European Parliament, the Council or the Court of Auditors concerning the financial management of Eurostars-2.
3. The Commission shall include the information referred to in paragraph 2 of this Article in the reports referred to in Article 15.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

*Article 15***Evaluation**

1. By 30 June 2017, the Commission shall carry out, in close cooperation with the Participating States and with the assistance of independent experts, an interim evaluation of Eurostars-2. The Commission shall prepare a report on that evaluation which includes the conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The result of the interim evaluation of Eurostars-2 shall be taken into account in the interim evaluation of Horizon 2020.

2. At the end of the Union's participation in Eurostars-2, but no later than 31 December 2022, the Commission shall conduct a final evaluation of Eurostars-2. The Commission shall prepare a report on that evaluation which is to include results of that evaluation. The Commission shall send that report to the European Parliament and to the Council.

*Article 16***Entry into force**

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 17***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 15 May 2014.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

D. KOURKOULAS

ANNEX I

Implementation of Eurostars-2

1. The ESE shall organise continuously open calls for proposals, with cut-off dates for the award of financial support to indirect actions.
2. Applicants shall submit project proposals to the ESE as a single entry point.
3. After the closure of a call for proposals, a central eligibility check shall be carried out by the ESE on the basis of the eligibility criteria set out in the annual work plan. No different or further eligibility criteria may be added by the Participating States.
4. The NFBs, under the coordination of the ESE, shall verify the financial capacity of the participants according to common, clear and transparent rules.
5. Eligible proposals shall be evaluated centrally and ranked by a group of external independent experts in accordance with the criteria set out in Article 15(1) of Regulation (EU) No 1290/2013, on the basis of transparent procedures.
6. The ESE shall provide an evaluation review procedure in accordance with Article 16 of Regulation (EU) No 1290/2013.
7. The ranking list, approved as a whole by the Eurostars-2 high-level group referred to in Annex II, shall be binding for the allocation of funding from the national budgets for Eurostars-2 projects.
8. Once the ranking list is approved, each Participating State shall finance its national participants in those projects selected for funding through the designated NFB, making all possible efforts to ensure that the top-50 ranked projects and at least 50 % to 75 % of the projects above thresholds are funded. The financial contribution to the participants shall be calculated according to the funding rules of the national programme of the relevant Eurostars-2 Participating State. The Union's financial contribution shall be transferred by the ESE to the NFBs provided that the NFBs have paid their financial contribution to the projects.
9. All eligible participants in projects selected centrally shall be funded. The granting of financial support by the NFBs to project participants selected centrally shall be subject to the principles of equal treatment, transparency and co-funding.
10. The ESE shall be responsible for evaluating proposals, informing NFBs, coordinating the synchronisation process, monitoring projects through project reporting and audits carried out by NFBs, and reporting to the Commission ensuring a short time-to-grant. It shall also take appropriate measures to encourage recognition of the Union's contribution to Eurostars-2, both to the programme itself and to individual projects. It shall promote appropriate visibility for the Union's contribution through the use of the Horizon 2020 logo in all published material, including printed and electronic publications, related to Eurostars-2.
11. ESE shall conclude Eurostars-2 bilateral agreements with the NFBs of Participating States. Those Eurostars-2 bilateral agreements shall set out the responsibilities of the contracting parties in accordance with the Eurostars-2 rules, objectives and implementation modalities. The Eurostars-2 bilateral agreements shall include the rules governing the transfer of the Union's contribution and the minimum operational targets and national progressive milestones for further integration and synchronisation of national programmes, including a shorter time-to-grant in accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1290/2013. Those targets and milestones shall be agreed by the Eurostars-2 high-level group in consultation with the Commission. The signature of the Eurostars-2 bilateral agreement and compliance with the operational targets and milestones shall be a pre-condition for NFBs to receive the Union's contribution.

12. The ESE may conclude Eurostars-2 bilateral agreements with the NFBs of partner countries. Those Eurostars-2 bilateral agreements shall set out the responsibilities of the contracting parties in accordance with the Eurostars-2 rules, objectives and implementation modalities, specify the conditions under which partnership with Eurostars-2 shall take place, and include the minimum operational targets, including a short time-to-grant.
 13. Networking activities and exchange of best practices shall also be organised amongst the Participating States in order to promote stronger integration at scientific, managerial and financial level.
 14. Other activities shall also include brokerage, programme promotion and networking activities with other stakeholders (investors, research and innovation providers, intermediaries) mainly to widen participation from beneficiaries in all Participating States and to involve SMEs with no prior experience in transnational research projects.
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ANNEX II

Governance of Eurostars-2

1. The ESE shall manage Eurostars-2.

The Head of the ESE, as the legal representative of the ESE, shall be in charge of implementing Eurostars-2 by:

- (a) preparing the annual budget for the calls, central organisation of joint calls for proposals and reception of the proposals as single entry point; the central organisation of the eligibility and evaluation of proposals, according to common eligibility and evaluation criteria, central organisation of the ranking and selection of proposals for funding, and project monitoring and follow-up; the receipt, allocation and monitoring of the Union contribution;
- (b) collecting the necessary information from the NFBs for the transfer the Union contribution;
- (c) promoting Eurostars-2;
- (d) reporting to the Eurostars-2 high-level group and the Commission on the Eurostars-2 programme;
- (e) informing the Eureka network about the activities of Eurostars-2;
- (f) signing the delegation agreement with the Commission, the bilateral agreements with the NFBs and the contracts with the experts assessing Eurostars-2 applications;
- (g) adopting the Eurostars-2 annual work plan following the prior agreement of the Eurostars-2 high-level group and of the Commission.

2. The Eurostars-2 high-level group, composed of the national representatives in the Eureka High Level Group of the Eurostars-2 Participating States, shall supervise the operations of the ESE on Eurostars-2 by:

- (a) supervising the implementation of Eurostars-2;
- (b) appointing the members of the Eurostars-2 Advisory Group ('EAG');
- (c) approving the annual work plan;
- (d) approving the ranking list of Eurostars-2 projects to be funded and taking the award decision.

The Union, represented by the Commission, shall have the status of observer in the Eurostars-2 high-level group. The Commission shall be invited to participate at the meetings, shall receive all meeting documents and may take part in the discussion.

Any partner country shall have the right to send representatives to meetings of the Eurostars-2 high-level group as observers.

3. The EAG shall be composed of Eureka National Project Coordinators (persons in the national government or agency dealing with the operational level of the management of Eureka/Eurostars programme and in charge of the promotion of Eurostars-2 in the Participating States) from the Participating States. The Commission and partner countries shall have the right to send representatives to the EAG meetings as observers. The EAG meetings shall be chaired by the ESE.

The EAG shall advise the ESE and the Eurostars-2 high-level group on the arrangements for the implementation of Eurostars-2.

4. The NFB shall be in charge of the administration of financial support to the national participants.

DECISION No 554/2014/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 May 2014****on the participation of the Union in the Active and Assisted Living Research and Development Programme jointly undertaken by several Member States**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 185, and the second paragraph of Article 188, thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) In its Communication of 3 March 2010 entitled 'Europe 2020 A strategy for smart, sustainable and inclusive growth' (the "Europe 2020 strategy"), the Commission emphasised the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union. Both the European Parliament and the Council have endorsed that strategy.
- (2) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽³⁾ established Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020) ("Horizon 2020"). Horizon 2020 aims at achieving a greater impact on research and innovation by contributing to the strengthening of public-public partnerships, including through Union participation in programmes undertaken by several Member States in accordance with Article 185 of the Treaty on the Functioning of the European Union.
- (3) Public-public partnerships should aim to develop closer synergies, increase coordination and avoid unnecessary duplication with Union, international, national and regional research programmes, and should fully respect the Horizon 2020 general principles, in particular those relating to openness and transparency. Moreover, open access to scientific publications should be ensured.
- (4) Decision No 742/2008/EC of the European Parliament and of the Council ⁽⁴⁾ provides for a Community financial contribution to the Ambient Assisted Living Joint Research and Development Programme ("AAL JP") matching that of the Member States but not exceeding EUR 150 000 000 for the duration of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) established by Decision No 1982/2006/EC of the European Parliament and of the Council ⁽⁵⁾.

⁽¹⁾ Opinion of 10 December 2013 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and decision of the Council of 6 May 2014.

⁽³⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

⁽⁴⁾ Decision No 742/2008/EC of the European Parliament and of the Council of 9 July 2008 on the Community's participation in a research and development programme undertaken by several Member States aimed at enhancing the quality of life of older people through the use of new information and communication technologies (OJ L 201, 30.7.2008, p. 49).

⁽⁵⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

- (5) In December 2012, the Commission communicated to the European Parliament and the Council a report on the interim evaluation of the AAL JP. That evaluation was carried out by an expert panel. The overall opinion of that expert panel was that the AAL JP had achieved good progress towards its objectives and remarkable results and that it should be continued beyond the current funding period. The expert panel noted however a few shortcomings, in particular the need for stronger user involvement in projects from the earliest possible stage and further improvements of the operational performance in terms of time-to-contract and time to payment.
- (6) The interim evaluation of 2010 and the consultation process of 2012 highlighted the diversity of financial instruments, eligibility rules and reimbursement systems. Participating States, through the Ambient Assisted Living General Assembly, could reflect on this and promote the exchange of good practices.
- (7) In its communication of 12 October 2006 entitled 'The demographic future of Europe — from challenge to opportunity', the Commission underlined the fact that demographic ageing is one of the main challenges facing all the Member States and that increased use of new technologies could help to control costs, improve well-being and promote the active participation in society of elderly people, as well as improving the competitiveness of Union economy.
- (8) Under the flagship initiative 'Innovation Union' of the Europe 2020 strategy, the Commission indicated the ageing of the population as one of the societal challenges where innovation breakthroughs can play an important role and boost competitiveness, enable European companies to lead in the development of new technologies, to grow and assume global leadership in new growth markets, improve the quality and efficiency of public services and so contribute to creating large numbers of new quality jobs.
- (9) About 20 million people across the Union are employed in "white-coat" jobs in the health sector and social services sector, a figure which is expected to increase in the coming years due to the aging population. Training and life-long learning in this sensitive sector should be a key priority. Therefore, the need for white coat jobs and for investments in modern skills, such as using information technologies, should be assessed more precisely.
- (10) In its communication of 19 May 2010 entitled 'A Digital Agenda for Europe', the Commission proposed to reinforce the AAL JP in order to help address the challenges of the ageing population.
- (11) In its communication of 29 February 2012 entitled 'Taking forward the Strategic Implementation Plan of the European Innovation Partnership on Active and Healthy Ageing', the Commission proposed to take account of relevant priorities of the Strategic Implementation Plan for future research and innovation work programmes and instruments which are part of Horizon 2020. The Commission also proposed to take into account the contributions that can be made by the AAL JP to the European Innovation Partnership on Active and Healthy Ageing.
- (12) Under the European Innovation Partnership on Active and Healthy Ageing established under the Innovation Union, innovative information and communication technologies (ICT) based solutions are expected to play an important role in meeting its goals of two additional healthy life years by 2020 as well as improving quality of life for citizens and improving efficiency of care systems in the Union. Its Strategic Implementation Plan sets out priorities for accelerating and scaling up innovation in active and healthy ageing across the Union, in three domains: prevention and health promotion, care and cure, and independent living and social inclusion.
- (13) Since ICT systems handle a large amount of personal data and profiles, and operate in real-time communication, thus bringing with them a high risk of data security breaches, data protection aspects should be taken into account. Moreover, the right to privacy should be respected.
- (14) The Active and Assisted Living Research and Development Programme ('the AAL Programme') should build on the achievements of the previous programme and address its shortcomings by encouraging sufficient user participation in projects from the initial stage, in order to ensure that solutions developed are acceptable and respond to specific user needs, and by ensuring better AAL Programme implementation.

- (15) The implementation of the AAL Programme should take into account a broad definition of innovation including organisational, business, technological, societal and environmental aspects. It should ensure a multidisciplinary approach and the integration of social sciences and humanities within the AAL Programme.
- (16) Activities of the AAL Programme should be in line with the objectives and research and innovation priorities of Horizon 2020 and with the general principles and conditions laid down in Article 26 of Regulation (EU) No 1291/2013.
- (17) A ceiling should be established for the Union's financial participation in the AAL Programme for the duration of Horizon 2020. The Union's financial participation in the AAL Programme should not exceed the financial contribution of the Participating States for the duration of Horizon 2020 in order to achieve a high leverage effect and ensure an active involvement of the Participating States in achieving the AAL Programme objectives.
- (18) In order to take into account the duration of Horizon 2020, calls for proposals under the AAL Programme should be launched at the latest by 31 December 2020. In duly justified cases, calls for proposals may be launched by 31 December 2021.
- (19) In line with the objectives of Regulation (EU) No 1291/2013, any Member State and any country associated to Horizon 2020 should be entitled to participate in the AAL Programme at any appropriate time.
- (20) In order to ensure that a financial commitment by the Union will be matched by the Participating States, the financial contribution by the Union should be subject to formal commitments from the Participating States before the launch of the AAL Programme and their fulfilment. The Participating States' contribution to the AAL Programme should include the administrative costs incurred at national level for the effective operation of the AAL Programme.
- (21) The joint implementation of the AAL Programme requires an implementation structure. The Participating States have agreed on the implementation structure for the AAL Programme and set up in 2007 the "Ambient Assisted Living" aisbl, an international non-profit association with legal personality established under Belgian law ('AALA'). Given that, according to the report on the interim evaluation, the existing governance structure of AAL JP has proven to be efficient and of good quality, the AALA should be used as the implementation structure and should take the role as allocation and monitoring body of the AAL Programme. The AALA should manage the Union's financial contribution and should ensure an efficient implementation of the AAL Programme.
- (22) In order to achieve the objectives of the AAL Programme, the AALA should provide financial support mainly through grants to participants in actions selected by the AALA. Those actions should be selected following calls for proposals under the responsibility of the AALA, which should be assisted by independent external experts. The ranking list should be binding as regards the selection of proposals and the allocation of funding from the Union's financial contribution and from the national budgets for AAL Programme projects.
- (23) The Union's financial contribution should be managed in accordance with the principle of sound financial management and with the rules on indirect management laid down in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾ and Commission Delegated Regulation (EU) No 1268/2012 ⁽²⁾.
- (24) In order to protect the financial interests of the Union, the Commission should, through proportionate measures, have the right to reduce, withhold or terminate the Union's financial contribution where the AAL Programme is implemented inadequately, partially or late, or the Participating States do not contribute, or contribute partially or late, to the financing of the AAL Programme. Those rights should be provided for in the delegation agreement to be concluded between the Union and the AALA.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 (OJ L 362, 31.12.2012, p. 1).

- (25) For the purpose of simplification, administrative burdens should be reduced for all parties. Double audits and disproportionate documentation and reporting should be avoided. When audits are conducted, the specificities of the national programmes should be taken into account, as appropriate.
- (26) Participation in indirect actions funded by the AAL Programme is subject to Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽¹⁾. However, due to specific operating needs of the AAL Programme it is necessary to provide for derogations from that Regulation in accordance with Article 1(3) of that Regulation.
- (27) Calls for proposals by AALA should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.
- (28) Specific derogations from Regulation (EU) No 1290/2013 are necessary, as the AAL Programme is intended as a market-oriented research and innovation programme in which many different national funding streams are joined up (such as research innovation, health and industry funding programmes). By their nature, those national programmes have different participation rules and cannot be expected to fully align with Regulation (EU) No 1290/2013. In addition, the AAL Programme is targeting in particular small and medium-sized enterprises and user organisations not usually participating in Union research and innovation activities. In order to facilitate the participation of those enterprises and organisations, the Union's financial contribution is provided in accordance with the well-known rules of their national funding programmes and implemented through a single grant combining Union funding with the corresponding national funding.
- (29) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (30) The Commission should conduct, with the assistance of independent experts, an interim evaluation assessing in particular the quality and efficiency of the AAL Programme and progress towards the objectives set, as well as a final evaluation, and prepare a report on those evaluations.
- (31) The evaluation should be based on precise and up-to-date information. Upon request from the Commission, the AALA and the Participating States should therefore submit any information which the Commission needs to include in the reports on the evaluation of the AAL Programme.
- (32) The actions envisaged in the AAL Programme should help underpin European public health and care systems, since they are an essential means of sustaining social welfare and reducing the welfare gap between regions and population sectors that is widening alarmingly owing to the current economic and social crisis.
- (33) The AAL Programme should ensure the effective promotion of gender equality as set out in Horizon 2020. The AAL Programme should promote gender equality and the gender dimension in research and innovation content. Particular attention should be paid to gender balance, subject to the situation in the field, in evaluation panels and in bodies such as advisory groups and expert groups. The gender dimension should be adequately integrated in research and innovation content in strategies, programmes and projects and followed through at all stages of the research cycle.
- (34) The AAL Programme should comply with ethical principles as set out in Horizon 2020. Particular attention should be paid to the principle of proportionality, the right to privacy, the right to the protection of personal data, the right to the physical and mental integrity, the right to non-discrimination and the need to ensure high levels of human health protection.

⁽¹⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

- (35) Since Participating States have decided to continue the AAL Programme and since the objectives of this Decision, namely to directly support and complement the Union policies in the field of active and healthy ageing, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DECISION:

Article 1

Participation in the AAL Programme

1. The Union shall participate in the Active and Assisted Living Research and Development Programme ("AAL Programme") jointly undertaken by Austria, Belgium, Cyprus, Denmark, France, Hungary, Ireland, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Switzerland and the United Kingdom (the "Participating States"), in accordance with the conditions laid down in this Decision.
2. Any Member State other than those listed in paragraph 1 and any other country associated to Horizon 2020 may apply to join the AAL Programme at any time, provided it fulfils the condition set out in point (c) of Article 3(1) of this Decision. If it fulfils the condition laid down in point (c) of Article 3(1), it shall be regarded as a Participating State for the purposes of this Decision.

Article 2

Union's financial contribution

1. The Union financial contribution to the AAL Programme covering administrative costs and operational costs shall be up to EUR 175 000 000. The Union's financial contribution shall be paid from appropriations in the general budget of the Union allocated to the relevant parts of the Specific Programme implementing Horizon 2020, established by Council Decision 2013/743/EU ⁽¹⁾ in accordance with point (c)(vi) of Article 58(1) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012.
2. The annual financial commitment of the Union to the AAL Programme shall not exceed the annual financial commitment to the AAL Programme by Participating States.
3. An amount not exceeding 6 % of the Union financial contribution referred to in paragraph 1 shall be used to contribute to the administrative costs of the AAL Programme.

Article 3

Conditions for the Union's financial contribution

1. The Union's financial contribution shall be conditional upon the following:
 - (a) the demonstration by the Participating States that the AAL Programme is set up in accordance with Annexes I and II;
 - (b) the designation by the Participating States or by organisations designated by the Participating States, of the AALA, as the structure responsible for the implementation of the AAL Programme and for allocating and monitoring the Union's financial contribution;
 - (c) a commitment by each Participating State to contribute to the financing of the AAL Programme;

⁽¹⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

- (d) demonstration by the AALA of its capacity to implement the AAL Programme, including allocating and monitoring the Union contribution in the framework of indirect management of the Union budget in accordance with Articles 58, 60 and 61 of Regulation (EU, Euratom) No 966/2012; and
 - (e) the establishment of a governance model for the AAL Programme in accordance with Annex III.
2. During the implementation of the AAL Programme, the Union's financial contribution shall also be conditional upon the following:
- (a) the implementation by the AALA of the AAL Programme objectives as set out in Annex I and activities set out in Annex II to this Decision in accordance with Regulation (EU) No 1290/2013, subject to Article 5 of this Decision;
 - (b) the maintenance of an appropriate and efficient governance model in accordance with Annex III;
 - (c) compliance by the AALA with the reporting requirements set out in Article 60 (5) of Regulation (EU, Euratom) No 966/2012; and
 - (d) fulfilment of the commitments by each Participating State referred to in point (c) of paragraph 1 and fulfilment of the annual commitments to contribute to the financing of the AAL Programme.

Article 4

Contributions from Participating States

Contributions from the Participating States shall consist of the following:

- (a) financial contributions to the indirect actions supported under the AAL Programme in accordance with Annex II;
- (b) in-kind contributions corresponding to the administrative costs incurred by the national administrations for the effective implementation of the AAL Programme in accordance with Annex II.

Article 5

Rules for participation and dissemination

1. For the purposes of Regulation (EU) No 1290/2013, the AALA shall be considered to be a funding body and shall provide financial support to indirect actions in accordance with Annex II to this Decision.
2. By way of derogation from Article 15(9) of Regulation (EU) No 1290/2013, the financial capacity of applicants shall be verified by the designated national programme management organisation in accordance with the rules of participation in the designated national programmes.
3. By way of derogation from Article 18(2) of Regulation (EU) No 1290/2013, the grant agreements with participants shall be signed by the designated national programme management agency.
4. By way of derogation from Article 23(1), (5) to (7)] and Articles 25 to 35 of Regulation (EU) No 1290/2013, the funding rules of the designated national programmes shall apply to the grants administered by the designated national programme management agencies.
5. By way of derogation from Articles 41 to 49 of Regulation (EU) No 1290/2013, the rules of the designated national programmes governing results, access rights to background and results shall apply, without prejudice to the principle of open access to scientific publications set out in Article 18 of Regulation (EU) No 1291/2013.

*Article 6***Implementation of the AAL Programme**

The AAL Programme shall be implemented on the basis of a strategy implemented through annual work plans in accordance with Annex II.

*Article 7***Agreements between the Union and the AALA**

1. Subject to a positive ex-ante assessment of the AALA in accordance with Article 61(1) of Regulation (EU, Euratom) No 966/2012, the Commission, on behalf of the Union, shall conclude a delegation agreement and annual transfer of funds agreements with the AALA.

2. The delegation agreement referred to in paragraph 1 shall be concluded in accordance with Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and with Article 40 of Delegated Regulation (EU) No 1268/2012. It shall also set out the following:

- (a) the requirements concerning the AALA's contribution regarding relevant indicators from among the performance indicators set out in Annex II to Decision 2013/743/EU;
- (b) the requirements concerning the AALA's contribution to the monitoring referred to in Decision 2013/743/EU;
- (c) the specific performance indicators necessary for monitoring the functioning of the AALA in accordance with Article 3(2);
- (d) the arrangements regarding the provision of data and information necessary to ensure that the Commission is able to meet its dissemination and reporting obligations.
- (e) provision for the publication of calls for proposals by the AALA in particular on the single portal for participants, as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.

*Article 8***Termination, reduction or suspension of the Union's financial contribution**

1. Where the AAL Programme is not implemented in accordance with the conditions set out in Article 3, the Commission may terminate, proportionally reduce, or suspend the Union's financial contribution in line with the actual implementation of the AAL Programme.

2. Where the Participating States do not contribute, contribute partially, or late to the financing of the AAL Programme, the Commission may terminate, proportionately reduce, or suspend the Union's financial contribution, taking into account the amount of funding allocated by the Participating States to implement the AAL Programme.

*Article 9***Ex-post audits**

1. Ex-post audits of expenditure on indirect actions shall be carried out by the designated national programme management agencies in accordance with Article 29 of Regulation (EU) No 1291/2013.

2. The Commission may decide to carry out itself the audits referred to in paragraph 1. In such cases, it shall do so in accordance with the applicable rules, in particular the provisions of Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

*Article 10***Protection of the financial interests of the Union**

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Decision are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded in accordance with this Decision.
3. Contracts, grant agreements and grant decisions resulting from the implementation of this Decision shall contain provisions expressly empowering the Commission, AALA, the Court of Auditors and OLAF to conduct audits and investigations, in accordance with their respective competences.
4. The AALA shall grant the Commission staff and other persons authorised by the Commission, as well as by the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct the audits referred to in paragraph 3.
5. In implementing the AAL Programme, the Participating States shall take the legislative, regulatory, administrative or other measures necessary for protecting the Union's financial interests, in particular, to ensure the full recovery of any amounts due to the Union in accordance with Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

*Article 11***Communication of information**

1. At the request of the Commission, the AALA shall submit to the Commission any information necessary for the preparation of the reports referred to in Article 12.
2. The Participating States shall submit, through the AALA, any relevant information requested by the European Parliament or the Council concerning the financial management of the AAL Programme.
3. The Commission shall communicate the information referred to in paragraph 2 of this Article in the reports set out in Article 12.

*Article 12***Evaluation**

1. By 30 June 2017 the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the AAL Programme. The Commission shall prepare a report on that evaluation which includes the conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The result of the interim evaluation of AAL Programme shall be taken into account in the interim evaluation of Horizon 2020.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

2. At the end of Union participation in the AAL Programme but no later than 31 December 2022, the Commission shall conduct a final evaluation of the AAL Programme. The Commission shall prepare a report on that evaluation which is to include results of the evaluation. The Commission shall send that report to the European Parliament and to the Council.

Article 13

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 14

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 15 May 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX I

OBJECTIVES OF THE AAL PROGRAMME

1. The AAL Programme shall fulfil the following objectives:
 - 1.1. accelerate the emergence and take-up of relevant, affordable and integrated innovative ICT-based solutions for active and healthy ageing at home, in the community, or at work, thus improving the quality of life, autonomy, social inclusion, participation in social life, skills or employability of older adults and contributing to increasing the efficiency and effectiveness of health and social care provision;
 - 1.2. support the development of solutions that contribute to the independence and alleviation of a sense of social isolation of older adults, in such a way that the ICT component does not reduce human contact, but is complementary to it. ICT-based solutions supported under the AAL Programme should integrate non-ICT aspects by design;
 - 1.3. maintain and further develop a critical mass of applied research, development and innovation at Union level in the areas of ICT-based products and services for active and healthy ageing;
 - 1.4. develop cost-effective, accessible and, where relevant, energy-efficient solutions, including establishing relevant interoperability standards and facilitating the localisation and adaptation of common solutions which are compatible with varying social preferences, socio-economic factors (including energy poverty, social inclusion), gender aspects, and regulatory aspects at national or regional level, respect the privacy and dignity of older adults, including the protection and security of personal data by applying state-of-the-art privacy-by-design and, where applicable, support access to services in rural and outlying areas or benefit other groups of people, such as people with disabilities. To improve accessibility, the concept of Design for All will be promoted in the development and deployment of solutions.
 2. The AAL Programme shall establish a favourable environment for the participation of small and medium-sized enterprises.
 3. The AAL Programme shall focus on market-oriented applied research and innovation and shall complement related longer-term research and large scale innovation activities envisaged under Horizon 2020, and other European and national initiatives such as joint programming initiatives and activities undertaken within the European Institute of Innovation and Technology and its relevant Knowledge and Innovation Communities. It shall also contribute to the implementation of the European Innovation Partnership on Active and Healthy Ageing.
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ANNEX II

ACTIVITIES OF THE AAL PROGRAMME**I. Indirect actions**

1. The implementation of the AAL Programme shall mainly support market-oriented research and innovation projects for active and healthy ageing, which shall demonstrate the capability to exploit the project results within a realistic time frame; the financing of those indirect actions under the AAL Programme shall mainly take the form of grants. It may also take other forms such as prizes, pre-commercial procurement, and public procurement of innovative solutions.
2. In addition, actions for the purposes of brokerage, programme promotion, in particular outreach activities to countries not currently participating in the AAL Programme, actions to raise awareness of the current capabilities, foster deployment of innovative solutions and connect supply and demand side organisations and facilitating access to finance and investors may be supported.
3. Actions aimed at improving the quality of proposals, feasibility studies and workshops may also be supported. Collaboration with the regions of the Union may be envisaged to enlarge the group of stakeholders involved in the AAL Programme.
4. Actions shall aim to consolidate and analyse different methods of end-user involvement in order to develop evidence-based best practice guidelines.

II. Implementation

1. The AAL Programme shall be implemented on the basis of annual work plans identifying forms of funding and topics for calls for proposals. The work plans shall be derived from a published strategy, highlighting challenges and priorities, adopted by the AALA.
2. The annual work plans shall be agreed with the Commission as a basis for the annual financial contribution from the Union.
3. The implementation of the AAL Programme shall entail consultations, including on strategy, with relevant stakeholders (including decision-makers from public authorities, user representatives, private-sector service providers and insurance providers as well as industry, including small and medium-sized enterprises) concerning the applied research and innovation priorities to be addressed.
4. The implementation of the AAL Programme shall take into account demographic trends and demographic research in order to provide solutions that reflect the social and economic situation across the Union.
5. The implementation of the AAL Programme shall take into account the Union's industrial, climate and energy policies. The AAL Programme shall also promote energy efficiency and reflect the need to tackle energy poverty.
6. Due account shall be taken of gender, ethical, social sciences and humanities and privacy issues, in line with the Horizon 2020 principles and rules. Account shall also be taken of relevant Union and national legislation and international guidelines, in particular regarding the rights to privacy and data protection.
7. In line with the close-to-market nature of the AAL Programme and in compliance with the rules set out in Regulation (EU, Euratom) No 966/2012, the AALA shall ensure time-to-grant and time-to-payment in accordance with Regulation (EU) No 1290/2013 and ensure compliance with them by Participating States during the implementation of the AAL Programme.
8. Each Participating State shall strongly promote, from the earliest stage of all research and innovation projects, the participation of organisations representing demand side actors, including end users.

9. Each Participating State shall co-finance its national participants whose proposals are successful through national agencies that shall, in addition, channel the Union co-funding from the dedicated implementation structure, on the basis of a common project description, which forms part of an agreement to be concluded between the respective national programme management agencies and their national participants for each project.
 10. After the closure of a call for project proposals, a central eligibility check shall be carried out by the AALA in cooperation with the designated national programme management agencies. That check shall be performed on the basis of the common eligibility criteria for the AAL Programme which shall be published with the call for project proposals.
 11. The AALA shall, with the assistance of the national programme management agencies, check the fulfilment of additional national eligibility criteria set out in the calls for project proposals.
 12. The national eligibility criteria shall relate only to the legal and financial status of the individual applicants and not to the content of the proposal and shall concern the following aspects:
 - 12.1. applicant type, including legal status and purpose;
 - 12.2. liability and viability, including financial soundness, fulfilment of tax and social obligations.
 13. Eligible project proposals shall be evaluated by the AALA with the assistance of independent experts, on the basis of transparent and common evaluation criteria, as set out in the published call for proposals, and a list of projects in order of score shall be produced. Projects shall be selected in accordance with that ranking and taking account of available funding. That selection, once adopted by the General Assembly of the AALA, shall be binding on the Participating States.
 14. If a project participant fails to meet one or more of the national eligibility criteria or if the corresponding national budget for commitment for funding is exhausted, the Executive Board of the AALA may decide that an additional central independent evaluation of the proposal concerned should be carried out with the assistance of independent experts, in order to evaluate the proposal either without the participation of the participant in question or with a replacement participant, as suggested by project participants.
 15. Legal and financial issues concerning participants in projects selected for funding shall be handled by the designated national programme management agency. National administrative rules and principles shall be applied.
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ANNEX III

GOVERNANCE OF THE AAL PROGRAMME

The organisational structure for the AAL Programme shall be as follows:

1. The AALA shall constitute the dedicated implementation structure created by the Participating States.
 2. The AALA shall be responsible for all the activities of the AAL Programme. The AALA's tasks shall include contract and budget management, the development of the annual work plans, organisation of the calls for proposals, handling of the evaluation and ranking of proposals for funding.
 3. In addition, the AALA shall supervise and be responsible for project monitoring and shall transfer the associated payments of the Union contributions to designated national programme management agencies. It shall also organise dissemination activities.
 4. The AALA shall be governed by the General Assembly. The General Assembly shall be the decision-making body of the AAL Programme. It shall appoint the members of the Executive Board and supervise the implementation of the AAL Programme, including the approval of the strategy and annual work plans, allocation of national funding to projects and the handling of applications for new membership. It shall work on the basis of a one-country one-vote principle. Decisions shall be taken by simple majority, except for decisions on the succession, admission or exclusion of members or the dissolution of the AALA, for which specific voting requirements may be set out in the statutes of the AALA.
 5. The Commission shall have an observer status in the meetings of the AALA General Assembly and shall approve the annual work plan. The Commission shall be invited to all the meetings of the AALA and may take part in the discussions. All the relevant documents circulated in connection with the AALA General Assembly shall be communicated to the Commission.
 6. The AALA Executive Board — consisting of at least a president, a vice-president, a treasurer and a vice-treasurer — shall be elected by the AALA General Assembly to undertake specific management responsibilities such as budget planning, staffing and contracting. It shall legally represent the AALA and report to the AALA General Assembly.
 7. The Central Management Unit established as a part of the AALA shall be responsible for the central management of the implementation of the AAL Programme in close coordination and cooperation with the national programme management agencies, which shall be authorised by the Participating States to undertake work associated with project management and administrative and legal aspects for the national project participants as well as to provide support for the evaluation and negotiation of project proposals. The Central Management Unit and national programme management agencies shall work together as the Management Unit under the supervision of the AALA.
 8. An Advisory Board shall be established by the AALA with representatives from industry, users and other relevant stakeholders, seeking balance between generations and gender. It shall provide recommendations to the AALA on the overall programme strategy, concerning priorities and topics to be addressed in the calls for proposals and regarding other relevant actions of the AAL Programme.
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DECISION No 555/2014/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 May 2014
on the participation of the Union in a European Metrology Programme for Innovation and Research
(EMPIR) jointly undertaken by several Member States
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 185, and the second paragraph of Article 188, thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) In its Communication of 3 March 2010 entitled "Europe 2020 A strategy for smart, sustainable and inclusive growth" ("the Europe 2020 strategy"), the Commission emphasised the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union. Both the European Parliament and the Council have endorsed that strategy.
- (2) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽³⁾ established Horizon 2020 – The Framework Programme for Research and Innovation (2014-2020) ("Horizon 2020"). Horizon 2020 aims at achieving a greater impact on research and innovation by contributing to the strengthening of public-public partnerships, including through Union participation in programmes undertaken by several Member States in accordance with Article 185 of the Treaty on the Functioning of the European Union.
- (3) Public-public partnerships should aim to develop closer synergies, increase coordination and avoid unnecessary duplication with Union, international, national and regional research programmes, and should fully respect the Horizon 2020 general principles, in particular those relating to openness and transparency. Moreover, open access to scientific publications should be ensured.
- (4) By Decision No 912/2009/EC of the European Parliament and of the Council ⁽⁴⁾, the Community decided to make a financial contribution to the European Metrology Research Programme (the "EMRP") matching that of the Participating States but not exceeding EUR 200 000 000, for the duration of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) established by Decision No 1982/2006/EC of the European Parliament and of the Council ⁽⁵⁾.

⁽¹⁾ Opinion of 10 December 2013 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and decision of the Council of 6 May 2014.

⁽³⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

⁽⁴⁾ Decision No 912/2009/EC of the European Parliament and of the Council of 16 September 2009 on the participation by the Community in a European metrology research and development programme undertaken by several Member States (OJ L 257, 30.9.2009, p. 12).

⁽⁵⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

- (5) In April 2012, the Commission communicated to the European Parliament and to the Council a report on Interim Evaluation of the European Metrology Research Programme – EMRP. That interim evaluation had been carried out by an expert panel three years after the beginning of the programme. The overall opinion of the expert panel was that EMRP is a well-managed joint European research programme that has already achieved a relatively high level of scientific, management and financial integration. However, the expert panel noted its limited industrial exploitation, limited opening to excellent science outside the metrology institutes and insufficient capacity building. The expert panel was also of the opinion that a more inclusive European metrology research area could be built by implementing the EMRP.
- (6) Pursuant to Council Decision 2013/743/EU ⁽¹⁾ further support may be provided to EMRP.
- (7) The European Metrology Programme for Innovation and Research ("EMPIR"), aligned with the Europe 2020 strategy and its flagship initiatives, in particular 'Innovation Union', 'A Digital Agenda for Europe', 'Resource-efficient Europe' and 'An Industrial Policy for the Globalisation Era', will be a more ambitious and inclusive programme, implemented over a period of ten years (2014-2024) by 28 Participating States. As part of the improvement of the previous programme, EMPIR will include activities on innovation and industrial exploitation, on research for norms, standardisation and regulatory purposes and on capacity building.
- (8) The Participating States intend to contribute to implementing EMPIR during the period covered by it, namely 2014-2024. In order to take into account the duration of Horizon 2020, calls for proposals under EMPIR should be launched at the latest by 31 December 2020. In duly justified cases, calls for proposals may be launched by 31 December 2021.
- (9) EMPIR's activities should be in line with the objectives and research and innovation priorities of Horizon 2020 and with the general principles and conditions laid down in Article 26 of Regulation (EU) No 1291/2013.
- (10) A ceiling should be established for the Union's financial participation in EMPIR for the duration of Horizon 2020. Within the limits of that ceiling, the Union contribution should be equal to the contribution of the States participating in EMPIR, in order to achieve a high leverage effect and ensure a stronger integration of Participating States' programmes.
- (11) In line with the objectives of Regulation (EU) No 1291/2013, any Member State and any country associated to Horizon 2020 should be entitled to participate in EMPIR.
- (12) The Union's financial contribution should be subject to formal commitments from the Participating States to contribute to the implementation of EMPIR and to the fulfilment of those commitments. Participating States' contributions to EMPIR should include a contribution to administrative costs, subject to a ceiling of 5 % of the budget of EMPIR. Participating States should commit to increase, if necessary, their contribution to EMPIR by a reserve funding capability of 50 % of their commitment to ensure that they are able to fund their national entities, National Metrology Institutes ("NMIs") and Designated Institutes ("DIs"), participating in the selected projects.
- (13) The joint implementation of EMPIR requires an implementation structure. The Participating States have agreed upon the implementation structure for EMRP, and in 2007 set up EURAMET e.V. ("EURAMET"), the European Regional Metrology Organisation and a non-profit association under German law. EURAMET also has tasks and obligations related to the wider European and global harmonisation of metrology. Membership of EURAMET is open to all European NMIs, as members, and to DIs, as associates. Membership of EURAMET is not conditional upon the existence of national metrology research programmes. Given that, according to the Report on Interim Evaluation of EMRP, the governance structure of EURAMET has proved to be efficient and of high quality for the implementation of the EMRP, EURAMET should also be used for the implementation of EMPIR. EURAMET should, therefore, be the recipient of the Union's financial contribution.

⁽¹⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

- (14) In order to achieve the objectives of EMPIR, EURAMET should provide financial support mainly in the form of grants to participants in actions selected at the level of EURAMET. Those actions should be selected following calls for proposals under the responsibility of EURAMET. The ranking list should be binding as regards the selection of proposals and the allocation of funding from the Union's financial contribution and from the contributions from Participating States for EMPIR projects.
- (15) The Union's financial contribution should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management laid down in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾ and Commission Delegated Regulation (EU) No 1268/2012 ⁽²⁾.
- (16) In order to protect the Union's financial interests, the Commission should have the right to reduce, suspend or terminate the Union's financial contribution if EMPIR is implemented inadequately, partially or late, or if the Participating States do not contribute, or contribute partially or late, to the financing of EMPIR. Those rights should be provided for in the delegation agreement to be concluded between the Union and EURAMET.
- (17) For the purpose of simplification, administrative burdens should be reduced for all parties. Double audits and disproportionate documentation and reporting should be avoided. When audits are conducted, the specificities of the national programmes should be taken into account, as appropriate.
- (18) Audits of recipients of Union funds provided in accordance with this Decision should ensure a reduction in the administrative burden, in accordance with Regulation (EU) No 1291/2013.
- (19) Participation in indirect actions funded by EMPIR is subject to Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽³⁾. However, due to specific operating needs of EMPIR, it is necessary to provide for derogations from that Regulation in accordance with Article 1(3) of that Regulation.
- (20) The contribution from Participating States mainly represents institutional funding of the NMIs and DIs participating in the selected projects. The contribution from Participating States should also include a cash contribution to the administrative costs of EMPIR. A proportion of the Union's contribution should be allocated to entities other than NMIs and DIs participating in the selected projects. The calculation of the Union's financial contribution for NMIs and DIs participating in EMPIR projects should ensure that the Union's contribution to EMPIR does not exceed the contribution of the Participating States. Considering that the institutional funding of the NMIs and DIs by Participating States corresponds to the overheads allocated to the EMPIR projects not reimbursed by the Union's contribution, the flat rate for the financing of the eligible indirect costs of the NMIs and DIs should be adapted, compared to the flat rate laid down in Regulation (EU) No 1290/2013. The flat rate for the financing of the eligible indirect costs of the NMIs and DIs should be determined on the basis of the full indirect costs declared as eligible by NMIs and DIs participating in EMRP projects, which are stable and constitute a reliable approximation of the indirect costs to be incurred by NMIs and DIs participating in EMPIR projects. Since those indirect costs amount to 140 % of the total direct eligible costs of the NMIs and DIs, excluding direct eligible costs for subcontracting and in-kind contributions free of charge not used on the premises of the beneficiaries, the flat rate for the financing of indirect costs of the NMIs and DIs should be lowered from 25 %, as laid down in Regulation (EU) No 1290/2013, to 5 %. It is therefore appropriate to provide for a derogation from Article 29 of that Regulation for the NMIs and DIs. Other entities participating in EMPIR projects should be funded in accordance with that Regulation.
- (21) Calls for proposals by EMPIR should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298 of 26.10.2012, p.1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 (OJ L 362 of 31.12.2012, p. 1).

⁽³⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

- (22) The appropriateness of the funding model with regard to the matching principle between Union and non-Union funds should be re-assessed at the time of the interim evaluation of EMPIR.
- (23) The Union's financial interests should be protected by means of proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (24) The Commission should conduct an interim evaluation assessing in particular the quality and efficiency of EMPIR, the progress made towards the objectives set and a final evaluation, and should prepare a report on those evaluations.
- (25) Upon request from the Commission, EURAMET and the Participating States should submit any information the Commission needs to include in the reports on the evaluation of EMPIR.
- (26) The objective of this Decision is the Union's participation in EMPIR, namely to support the provision of appropriate, integrated and fit-for-purpose metrology solutions and the creation of an integrated European Metrology Research system with critical mass and active engagement at regional, national, European and international level that cannot be sufficiently achieved by the Member States alone. The scale and complexity of metrology requirements calls for investments that go beyond the core research budgets of the NMIs and their DIs. The excellence required for research and the development of cutting-edge metrology solutions is spread across national borders and hence cannot be brought together at national level only. Since the objective can therefore be better achieved at Union level by integrating national efforts into a consistent European approach, by bringing together compartmentalised national research programmes, by helping design common research and funding strategies across national borders, and by achieving the critical mass of actors and investments required, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DECISION:

Article 1

Participation in the European Metrology Programme for Innovation and Research

1. The Union shall participate in the European Metrology Programme for Innovation and Research ("EMPIR") jointly undertaken by Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Norway, Spain, the Netherlands, Poland, Portugal, Romania, Serbia, Slovenia, Slovakia, Sweden, Switzerland, Turkey and the United Kingdom (the "Participating States"), in accordance with the conditions laid down in this Decision.
2. Any Member State other than those listed in paragraph 1 and any other country associated to Horizon 2020 may participate in EMPIR, provided it fulfils the condition laid down in point (c) of Article 3(1) of this Decision. If it fulfils the condition laid down in point (c) of Article 3(1), it shall be regarded as a Participating State for the purposes of this Decision.

Article 2

Union's financial contribution

1. The Union's financial contribution, including EFTA appropriations, to EMPIR shall be up to EUR 300 000 000. The Union's financial contribution shall be paid from appropriations in the general budget of the Union allocated to the relevant parts of the Specific Programme, implementing Horizon 2020, established by Decision 2013/743/EU, in accordance with point (c)(vi) of Article 58(1) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012, and in particular from Part II "Industrial leadership" and Part III "Societal challenges".

2. Without exceeding the amount laid down in paragraph 1, the Union's financial contribution shall be equal to the contributions of the Participating States to EMPIR, excluding the contributions of the Participating States to administrative costs exceeding 5 % of the EMPIR budget.
3. The Union's financial contribution shall not be used to cover the administrative costs of EMPIR.

Article 3

Conditions for the Union's financial contribution

1. The Union's financial contribution shall be conditional upon the following:
 - (a) the demonstration by the Participating States that EMPIR is set up in accordance with Annexes I and II;
 - (b) the designation by the Participating States, or NMIs designated by Participating States, of EURAMET e.V. ("EURAMET") as the structure responsible for implementing EMPIR and for receiving, allocating and monitoring the Union's financial contribution;
 - (c) the commitment by each Participating State to contribute to the financing of EMPIR and to establish a reserve funding capability of 50 % of the amount of the commitment;
 - (d) the demonstration by EURAMET of its capacity to implement EMPIR, including receiving, allocating and monitoring the Union's financial contribution in the framework of indirect management of the Union budget in accordance with Articles 58, 60 and 61 of Regulation (EU, Euratom) No 966/2012; and
 - (e) the establishment of a governance model for EMPIR in accordance with Annex III.
2. During the implementation of EMPIR, the Union's financial contribution shall also be conditional upon the following:
 - (a) the implementation by EURAMET of EMPIR's objectives set out in Annex I and activities set out in Annex II, in accordance with the rules for participation and dissemination referred to in Article 5;
 - (b) the maintenance of an appropriate and efficient governance model in accordance with Annex III;
 - (c) the compliance by EURAMET with the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012; and
 - (d) the fulfilment of the commitments referred to in point (c) of paragraph 1 of this Article.

Article 4

Contributions from Participating States

Contributions from the Participating States shall consist of the following:

- (a) contributions through institutional funding of the NMIs and the DIs participating in EMPIR projects;
- (b) financial contributions to the administrative costs of EMPIR.

*Article 5***Rules for participation and dissemination**

1. For the purposes of Regulation (EU) No 1290/2013, EURAMET shall be considered to be a funding body and shall provide financial support to indirect actions in accordance with Annex II to this Decision.
2. By way of derogation from Article 29(1) of Regulation (EU) No 1290/2013, indirect eligible costs of NMI and DI participating in projects funded by EMPIR shall be determined by applying a flat rate of 5 % of their 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 beneficiary, as well as financial support to third parties.
3. The interim evaluation of EMPIR referred to in Article 12 shall include an assessment of the full indirect costs of the NMI and the DI participating in EMPIR projects and of the corresponding institutional funding.
4. On the basis of this assessment and for the purpose of Article 2(2), EURAMET may adapt the flat rate set out in paragraph 2 of this Article.
5. If insufficient, EURAMET may, by way of derogation from Article 28(3) of Regulation (EU) No 1290/2013, apply a lower reimbursement rate to the eligible costs of the NMI and the DI participating in projects funded by EMPIR.

*Article 6***Implementation of EMPIR**

1. EMPIR shall be implemented on the basis of annual work plans.
2. EURAMET shall provide financial support mainly in the form of grants to participants following calls for proposals.

Before identifying the topics of each call for proposals, EURAMET shall invite interested individuals or organisations from the metrology research community and users to suggest potential research topics.

*Article 7***Agreements between the Union and EURAMET**

1. Subject to a positive ex-ante assessment of EURAMET in accordance with Article 61(1) of Regulation (EU, Euratom) No 966/2012, the Commission, on behalf of the Union, shall conclude a delegation agreement and annual transfer of funds agreements with EURAMET.
2. The delegation agreement referred to in paragraph 1 shall be concluded in accordance with Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and with Article 40 of Delegated Regulation (EU) No 1268/2012. It shall also set out the following:
 - (a) the requirements for EURAMET's contribution regarding the performance indicators set out in Annex II to Decision 2013/743/EU;
 - (b) the requirements for EURAMET's contribution to the monitoring referred to in Annex III to Decision 2013/743/EU;
 - (c) the specific performance indicators related to the functioning of EURAMET;
 - (d) the requirements for EURAMET regarding the provision of information on administrative costs and on detailed figures concerning the implementation of EMPIR;

- (e) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations;
- (f) provisions for the publication of calls for proposals by EMPIR, in particular on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.

Article 8

Termination, reduction or suspension of the Union's financial contribution

If EMPIR is not implemented or is implemented inadequately, partially or late, the Commission may terminate, proportionately reduce or suspend the Union's financial contribution in line with the actual implementation of EMPIR.

If the Participating States do not contribute, contribute partially or late to the financing of EMPIR, the Commission may terminate, proportionately reduce or suspend the Union's financial contribution, taking into account the amount of funding allocated by the Participating States to implement EMPIR.

Article 9

Ex-post audits

1. Ex-post audits of expenditure on indirect actions shall be carried out by EURAMET in accordance with Article 29 of Regulation (EU) No 1291/2013.
2. The Commission may decide to carry out itself the audits referred to in paragraph 1. In such cases, it shall do so in accordance with the applicable rules, in particular the provisions of Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

Article 10

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Decision are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. EURAMET shall grant Commission staff and other persons authorised by it, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾ and, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded in accordance with this Decision.
4. Contracts, grant agreements and grant decisions resulting from the implementation of this Decision shall contain provisions expressly empowering the Commission, EURAMET, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

5. In implementing EMPIR, the Participating States shall take the legislative, regulatory, administrative and other measures necessary to protect the Union's financial interests, in particular, to ensure full recovery of any amounts due to the Union in accordance with Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

Article 11

Communication of information

1. At the request of the Commission, EURAMET shall send any information necessary for the preparation of the reports referred to in Article 12.
2. The Participating States shall submit to the Commission, through EURAMET, any information requested by the European Parliament, the Council or the Court of Auditors concerning the financial management of EMPIR.
3. The Commission shall include the information referred to in paragraph 2 of this Article in the reports referred to in Article 12.

Article 12

Evaluation

1. By 30 June 2017, the Commission shall carry out, with the assistance of independent experts, an interim evaluation of EMPIR. The Commission shall prepare a report on that evaluation which includes the conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The result of the interim evaluation of EMPIR shall be taken into account in the interim evaluation of Horizon 2020.
2. At the end of the Union's participation in EMPIR, but no later than 31 December 2024, the Commission shall conduct a final evaluation of EMPIR. The Commission shall prepare a report on that evaluation which is to include the results of that evaluation. The Commission shall send that report to the European Parliament and to the Council.

Article 13

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 14

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 15 May 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX I

OBJECTIVES OF EMPIR

EMPIR shall pursue the following general objectives:

- (a) provide appropriate, integrated and fit-for-purpose metrology solutions supporting innovation and industrial competitiveness, as well as measurement technologies addressing societal challenges such as health, environment and energy, including support to policy development and implementation;
 - (b) create an integrated European Metrology Research system with critical mass and active engagement at regional, national, European and international level.
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ANNEX II

INDIRECT ACTIONS SUPPORTED BY EMPIR

1. EMPIR may support the following indirect actions in the area of joint research and technological development:
 - 1.1. scientific-technical actions supporting fundamental scientific metrology laying the basis for all successive steps including applied metrology research and development and metrology-related services;
 - 1.2. metrology research to provide solutions for societal challenges focusing on contributions to energy, environment and health;
 - 1.3. research in order to develop novel measurement instrumentation aiming at industrial take-up of metrological technologies to stimulate innovation in industry;
 - 1.4. pre-normative and co-normative metrology research and development for priority documentary standards aiming to use the expertise of metrology institutes of the Participating States to support policy implementation and accelerate innovative products and services to market;
 - 1.5. metrology capacity-building activities on different technological levels aiming to achieve a balanced and integrated metrology system in the Participating States, and enabling them to develop their scientific and technical capabilities in metrology.
2. EMPIR may support further actions for the dissemination and exploitation of results of metrology research.

EMPIR may support other actions specifically addressing metrology institutes which have no or limited scientific capabilities, by supporting them in using other European Union, national or regional programmes for training and mobility, cross-border cooperation or investment in metrology infrastructure.

3. EMPIR may support organisation of networking activities to promote EMPIR and maximise its impact.
4. The indirect actions referred to in point 1 shall be carried out by NMIs and DIs according to the designation by the appropriate national authority. However, EMPIR shall encourage and support the participation of other entities in all calls launched by EMPIR. This approach is expected to result in around 15 % of the budget of EMPIR going to those entities.

ANNEX III

IMPLEMENTATION AND GOVERNANCE OF EMPIR**I Role of EURAMET**

1. EURAMET shall be responsible for implementing EMPIR, subject to Article 3. It shall manage the Union's financial contribution to EMPIR and shall be responsible for preparing and implementing the annual work plan, the organisations of calls for proposals, the handling of proposal evaluation and ranking and any other activities resulting from the annual work plan. EURAMET shall be responsible for grant management including signature of grant agreements, the receipt, allocation and monitoring of the use of the Union's financial contribution and payments to EMPIR participants in the selected projects.

The monitoring of the Union's financial contribution shall cover all the activities of control and audit, ex-ante and/or ex-post control, necessary to carry out the tasks delegated to EURAMET by the Commission. Those activities shall aim to provide reasonable assurance as to the legality and regularity of the underlying transactions and the eligibility of the costs declared under grant agreements.

2. EURAMET may entrust to the Participating States certain administrative and logistical tasks in implementing EMPIR.

II The organisational structure of EURAMET involved in implementing EMPIR

1. The General Assembly is the highest authority with respect to all EURAMET matters. The EMPIR Committee manages the programme within a framework defined by EURAMET, so that EURAMET can ensure that the programme as executed meets its objectives.

The EMPIR Committee shall be composed of representatives of EURAMET members from the Participating States. The voting weights shall be calculated from the national commitments according to a square root rule.

The EMPIR Committee shall take, in particular, decisions on the strategic research and innovation agenda, the planning of calls for proposals, the evaluation review procedure, the selection of the projects to be funded according to the ranking lists and the monitoring of progress of the funded projects. It shall adopt the annual work plan after obtaining approval from the Commission.

The Commission shall have observer status in the meetings of the EMPIR Committee. However, the adoption of the annual work plan by the EMPIR Committee shall require the prior consent of the Commission. The EMPIR Committee shall invite the Commission to its meetings and shall send the Commission the relevant documents. The Commission may take part in the discussions of the EMPIR Committee.

2. The Chairperson of the EMPIR Committee and his or her deputy shall be elected by the EMPIR Committee. The Chairperson of the EMPIR Committee shall be one of the two Vice-chairpersons of EURAMET. The Chairperson of the EMPIR Committee shall represent EURAMET in matters related to EMPIR.
 3. The Research Council shall be composed of high-level experts from industry, research, academia and international stakeholder organisations. It shall provide independent strategic advice on the annual work plan of EMPIR. The members of the Research Council shall be appointed by the EURAMET General Assembly.
 4. The Secretariat of EURAMET providing general administrative support for EURAMET shall keep the bank accounts for EMPIR.
 5. The Management support unit shall be established as part of the Secretariat of EURAMET and shall be responsible for the implementation and the day-to-day management of EMPIR.
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DECISION No 556/2014/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 May 2014****on the participation of the Union in a second European and Developing Countries Clinical Trials Partnership Programme (EDCTP2) jointly undertaken by several Member States**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 185, and the second paragraph of Article 188, thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) In its Communication of 3 March 2010 entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth' ('the Europe 2020 strategy'), the Commission emphasised the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union. The European Parliament and the Council have endorsed that strategy.
- (2) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽³⁾ established Horizon 2020 — The Framework Programme for Research and Innovation (2014-2020) ('Horizon 2020'). Horizon 2020 aims at achieving a greater impact on research and innovation by contributing to the strengthening of public-public partnerships, including through Union participation in programmes undertaken by several Member States in accordance with Article 185 of the Treaty on the Functioning of the European Union.
- (3) Public-public partnerships should aim to develop closer synergies, increase coordination and avoid unnecessary duplication with Union, international, national and regional research programmes, and should fully respect the Horizon 2020 general principles, in particular those relating to openness and transparency. Moreover, open access to scientific publications should be ensured.
- (4) By Decision No 1209/2003/EC of the European Parliament and of the Council ⁽⁴⁾, the Community decided to make a financial contribution to the European and Developing Countries Clinical Trials Partnership ('EDCTP1') matching that of the Participating States but not exceeding EUR 200 000 000, for the duration of the Sixth Framework Programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006)

⁽¹⁾ Opinion of 10 December 2013 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and decision of the Council of 6 May 2014.

⁽³⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

⁽⁴⁾ Decision No 1209/2003/EC of the European Parliament and of the Council of 16 June 2003 on Community participation in a research and development programme aimed at developing new clinical interventions to combat HIV/AIDS, malaria and tuberculosis through a long-term partnership between Europe and developing countries, undertaken by several Member States (OJ L 169, 8.7.2003, p. 1).

established by Decision No 1513/2002/EC of the European Parliament and of the Council ⁽¹⁾. EDCTP1 was also supported under the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 – 2013) established by Decision No 1982/2006/EC of the European Parliament and of the Council ⁽²⁾.

- (5) In 2009, independent experts adopted the report of the interim evaluation of EDCTP1. The opinion of the expert panel was that EDCTP1 provided a unique platform for a genuine dialogue with African scientists, and that it has started to bridge the gap between North and South in building research capacities and in providing learning and working opportunities for young African researchers. Following that report, there are fundamental issues to be taken into consideration for a second European and Developing Countries Clinical Trials Partnership Programme ('EDCTP2 Programme'): the current scope of EDCTP1 needs to be amended and extended; the capabilities in developing countries for the sound conduct and management of clinical trials should, where necessary, be further developed and strengthened, in particular the role and development of ethical review committees and the corresponding regulatory environment, the coordination, collaboration and, where appropriate, integration of European national programmes should be further improved; collaboration with other major public and private partners, including the pharmaceutical industry, and public-private partnerships such as the Product Development Partnerships ('PDPs'), civil society, non-governmental organisations and foundations, need to be strengthened and extended; there should be clear and transparent rules of governance; synergies with European external policy actions should be developed specifically with Union development assistance; co-funding rules should be clarified and simplified; and monitoring tools need to be strengthened.
- (6) Pursuant to Council Decision 2013/743/EU ⁽³⁾, further support may be provided to the EDCTP2 Programme.
- (7) The Union is a major funder of research into poverty-related diseases and neglected infectious diseases. The Commission and Member States contribute nearly one quarter (22 %) of the relevant global investment made by governments. The Union is also a major player in global health. For example, the Commission and the Member States provide approximately half the financing of the Global Fund To Fight AIDS, Tuberculosis and Malaria.
- (8) EDCTP1 produced major achievements, and developed eight improved medical treatments, in particular for newborns, children and pregnant or breastfeeding women suffering from HIV/AIDS or malaria. It has resulted in the launch of the first four African Regional Networks of Excellence promoting South-South cooperation on clinical research, and more than 400 African researchers have been trained. It has also contributed to establishing the Pan-African Clinical Trials Registry and the African Vaccine Regulators Forum.
- (9) Despite the considerable results and achievements of EDCTP1, poverty-related diseases still represent a major obstacle to the sustainable development of developing countries due to their social and economic burden, especially in sub-Saharan Africa. Effective, safe, suitable and affordable medical treatments tailored to the specific circumstances of developing countries still do not exist for most poverty-related diseases, and investment in clinical research remains inadequate as conducting clinical trials is costly and the return on investment is limited due to market failure. It should be underlined that only 10 % of global research funding is allocated to the diseases which account for 90 % of the world's pathologies. Moreover, European research activities and programmes are still often fragmented and are therefore either subcritical in scale or overlapping, whereas research capacity and investment in developing countries are inadequate.
- (10) Supporting the fight against poverty-related diseases would also help to safeguard Europe's citizens from those diseases as increasing global mobility (including tourism), migratory movements and shifts in the geographic distribution of those diseases mean that Europe may be facing new or returning challenges in connection with those diseases.

⁽¹⁾ Decision No 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006) (OJ L 232, 29.8.2002, p. 1).

⁽²⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

⁽³⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

- (11) On 15 June 2010, the European Parliament adopted a resolution on progress towards achieving the Millennium Development Goals ('MDG') in advance of the UN high-level meeting in September 2010, in which it asked the Commission, the Member States and developing countries to address MDG 5 (on improving maternal health), MDG 4 (on child mortality) and MDG 6 (on HIV/AIDS, malaria and tuberculosis) in a coherent and holistic way.
- (12) The Union is committed to the 2012 Rio+20 conference conclusions on developing and achieving internationally-agreed Sustainable Development Goals ('SDG'), following and including the MDG.
- (13) In 2000, the Union launched a high-level policy dialogue with Africa leading to the establishment of an Africa-EU Strategic Partnership, following which a Joint Africa-EU Strategy was adopted in 2007 and a high-level policy dialogue on Science, Technology and Innovation was established in 2011.
- (14) On 31 March 2010, the Commission presented a communication on the Union's role in global health, which called for a more coordinated approach among Member States and across relevant policies to identify and jointly address shared global priorities for health research. In that communication, the Commission also restated the need to promote equitable and universal coverage of quality health services, plus effective and fair financing of research that benefits the health of all people.
- (15) In the Council Conclusions of 10 May 2010 on the EU role in global health, the Council called on the Union to promote effective and fair financing of research that benefits the health of all and ensures that innovations and interventions lead to affordable and accessible solutions. In particular, models that dissociate the costs of Research and Development ('R&D') from the prices of medicines should be explored, including the opportunities for technology transfer to developing countries.
- (16) In its Communication of 21 September 2011 on partnering in research and innovation, the Commission put partnerships across institutional, national and continental borders at the centre of the Union's research policy.
- (17) In its Communication of 27 February 2013 entitled 'A decent life for all: ending poverty and giving the world a sustainable future', the Commission reaffirmed its commitment to doing its utmost to help achieve the MDG by 2015, and pointed out that EU-funded research under EDCTP1 had contributed to achieving the MDG.
- (18) In line with the objectives of Horizon 2020, any Member State and any country associated to Horizon 2020 should be entitled to participate in the EDCTP2 Programme.
- (19) Contribution to the exploration of open innovation models for needs-driven research, and available and affordable outcomes in alignment with other Union commitments in health R & D should be considered.
- (20) The Participating States intend to contribute to implementing the EDCTP2 Programme during the period covered by it, namely 2014 – 2024. In order to take into account the duration of Horizon 2020, calls for proposals under the EDCTP2 Programme should be launched at the latest by 31 December 2020. In duly justified cases, calls for proposals may be launched by 31 December 2021.
- (21) A ceiling should be established for the Union's financial participation in EDCTP2 Programme for the duration of Horizon 2020. Within the limits of that ceiling, the Union contribution should be equal to the contribution of the states referred to in this Decision in order to achieve a high leverage effect and ensure a stronger integration of those states' programmes.
- (22) The Union's financial contribution should be subject to formal commitments from the Participating States to contribute to implementing the EDCTP2 Programme and to the fulfilment of those commitments.

- (23) The joint implementation of the EDCTP2 Programme requires an implementation structure. The Participating States have agreed on the implementation structure for EDCTP2 Programme and have set up the EDCTP2-Implementation Structure ('EDCTP2-IS'). The EDCTP2-IS should be the recipient of the Union's financial contribution and should ensure the efficient implementation of the EDCTP2 Programme.
- (24) EDCTP2 activities should be in line with the objectives and research and innovation priorities of Horizon 2020 and with the general principles and conditions laid down in Article 26 of Regulation (EU) No 1291/2013.
- (25) Calls for proposals by EDCTP2-IS should also be published on the single portal for participants, as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.
- (26) The Union's financial contribution should be managed in compliance with the principle of sound financial management and in accordance with the relevant rules on indirect management laid down in Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council ⁽¹⁾ and Commission Delegated Regulation (EU) No 1268/2012 ⁽²⁾.
- (27) In order to protect the Union's financial interests, the Commission should have the right to reduce, suspend or terminate the Union's financial contribution if the EDCTP2 Programme is implemented inadequately, partially or late, or if the Participating States do not contribute, or contribute partially or late, to the financing of the EDCTP2 Programme. Those rights should be provided for in the delegation agreement to be concluded between the Union and the EDCTP2-IS.
- (28) In order to implement the EDCTP2 Programme efficiently, financial support should be provided by the EDCTP2-IS mainly in the form of grants to participants in actions selected at the level of the EDCTP2-IS. The selection of those actions should be made following open and competitive calls for proposals under the responsibility of the EDCTP2-IS.
- (29) Participation in indirect actions under the EDCTP2 Programme is subject to Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽³⁾. However, due to the specific operating needs of the EDCTP2 Programme, it is necessary to provide for derogations from that Regulation in accordance with Article 1(3) of that Regulation.
- (30) Derogations from point (b) of Article 9(1), point (c) of Article 10(1) and Article 12 of Regulation (EU) No 1290/2013 are necessary in order to require participation and allow funding of African entities, and allow cooperation through joint calls between the EDCTP2 Programme and any other legal entity.
- (31) For the purpose of simplification, administrative burdens should be reduced for all parties. Double audits and disproportionate documentation and reporting should be avoided. When audits are conducted, the specificities of the national programmes should be taken into account, as appropriate.
- (32) Audits of recipients of Union funds provided in accordance with this Decision should ensure a reduction of the administrative burden, in compliance with Horizon 2020.
- (33) The Union's financial interests should be protected by means of proportionate measures throughout the expenditure life-cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 (OJ L 362, 31.12.2012, p. 1).

⁽³⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

- (34) The Commission should conduct interim evaluations, assessing in particular the quality and efficiency of the EDCTP2 Programme, the progress made towards the objectives set and a final evaluation, and should prepare reports on those evaluations.
- (35) Upon request from the Commission, the EDCTP2-IS and the Participating States should submit any information the Commission needs to include in the reports on the evaluation of the EDCTP2 Programme.
- (36) It is essential that the research activities carried out under the EDCTP2 Programme are in full compliance with the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights and its Supplementary Protocols, ethical principles included in the World Medical Association's Declaration of Helsinki of 2008, the standards of good clinical practice adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use, relevant Union legislation and local ethics requirements of the countries where the research activities are to be conducted.
- (37) It is essential that informed consent for clinical trials conducted in developing countries should always be obtained in a way that is truly informed and voluntary.
- (38) It is also important that the activities conducted under the EDCTP2 Programme should be coherent with the Union's development policy actions. In this context, synergies between EDCTP2 and the European Development Fund should be sought.
- (39) Within the objective of cooperation with international development assistance initiatives, EDCTP2 funded activities should take into account the recommendations proposed by the relevant World Health Organisation (WHO) initiatives where appropriate, including the consultative Expert Working Group on Research and Development ('CEWG').
- (40) The Scientific Panel for Health was set up by Horizon 2020 as a science-led stakeholder platform, in order to elaborate scientific input, to provide a coherent scientific focused analysis of research and innovation bottlenecks and opportunities related to the Horizon 2020 societal challenge on health, demographic change and well-being, to contribute to the definition of its research and innovation priorities and to encourage Union-wide scientific participation. Through active cooperation with stakeholders, it helps to build capabilities and to foster knowledge-sharing and stronger collaboration across the Union in that field. EDCTP2 should, therefore, collaborate and exchange information with the Scientific Panel for Health, where appropriate.
- (41) Since the objectives of this Decision, namely to contribute to the reduction of the social and economic burden of poverty-related diseases in developing countries, and in particular in sub-Saharan Africa, by accelerating the clinical development of effective, safe, accessible, suitable and affordable medical interventions for poverty-related diseases, cannot be sufficiently achieved by the Member States due to the lack of necessary critical mass to be achieved, both in human and financial terms, and can therefore, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary for those objectives,

HAVE ADOPTED THIS DECISION:

Article 1

Participation in the second European and Developing Countries Clinical Trials Partnership Programme

1. The Union shall participate in the second European and Developing Countries Clinical Trials Partnership Programme (the 'EDCTP2 Programme'), jointly undertaken by Austria, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom (the 'Participating States') in accordance with the conditions laid down in this Decision.

2. Any Member State other than those listed in paragraph 1 and any other country associated to Horizon 2020 may participate in the EDCTP2 Programme, provided it fulfils the condition set out in point (e) of Article 3(1) of this Decision. If it fulfils the condition set out in point (e) of Article 3(1), it shall be regarded as a Participating State for the purposes of this Decision.

Article 2

Union's financial contribution

1. The Union's financial contribution, including EFTA appropriations, to the EDCTP2 Programme shall be up to EUR 683 000 000 to equal the contributions of Participating States.

2. The Union's financial contribution shall be paid from the appropriations in the general budget of the Union allocated to the relevant parts of the Specific Programme implementing Horizon 2020, established by Decision 2013/743/EU, and in particular from the appropriations under the specific objective 'Health, demographic change and wellbeing' in accordance with point (c)(vi) of Article 58(1) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012.

3. Up to 6 % of the Union's financial contribution referred to in paragraph 1 may be used by the implementing structure of EDCTP2 (the 'EDCTP2-IS') to cover its administrative costs.

Article 3

Conditions for the Union's financial contribution

1. The Union's financial contribution shall be conditional upon the following:

- (a) the demonstration by the Participating States that the EDCTP2 Programme is set up in accordance with Annexes I, II and III;
- (b) the designation by the Participating States or organisations designated by the Participating States of the EDCTP2-IS, an entity with legal personality, as the structure responsible for implementing the EDCTP2 Programme and for receiving, allocating and monitoring the Participating States' contribution, as well as the Union's financial contribution;
- (c) the demonstration by the EDCTP2-IS of its capacity to implement the EDCTP2 Programme, including receiving, allocating and monitoring the Union's contribution in the framework of indirect management of the Union budget in accordance with Articles 58, 60 and 61 of Regulation (EU, Euratom) No 966/2012;
- (d) the establishment of a governance model for the EDCTP2 Programme in accordance with Annex III; and
- (e) the commitment by each Participating State to contribute to the financing of the EDCTP2 Programme.

2. During the implementation of the EDCTP2 Programme, the Union's financial contribution shall be conditional upon the following:

- (a) the implementation by the EDCTP2-IS of the objectives set out in Annex I, and activities set out in Annex II, to this Decision, in particular the activities and indirect actions that it funds, in compliance with Regulation (EU) No 1290/2013 as referred to in Article 6 of this Decision;
- (b) the maintenance of an appropriate and efficient governance model for the EDCTP2 Programme in accordance with Annex III;
- (c) the compliance by the EDCTP2-IS with the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012; and
- (d) the fulfilment of the commitments referred to in point (e) of paragraph 1.

*Article 4***Activities of the EDCTP2 Programme**

1. The activities of the EDCTP2 Programme shall meet the objectives described in Annex I and shall comply with Annex II.

Activities may include national programme activities of Participating States, including activities undertaken by public or private not-for-profit research organisations, and new activities, including calls for proposals managed by the EDCTP2-IS.

Activities shall be included in the work plan of the EDCTP2 Programme adopted annually by the EDCTP2-IS (the EDCTP2 annual work plan), following the positive outcome of their external evaluation by international peer review with regard to the objectives of the EDCTP2 Programme.

2. The EDCTP2 annual work plan shall detail the budgeted value of each activity and shall provide for the allocation of the funding managed by the EDCTP2-IS, including the Union's financial contribution.

The EDCTP2 annual work plan shall differentiate between the activities funded or co-funded by the Union and those funded by Participating States or other revenues.

3. The EDCTP2-IS shall implement the EDCTP2 annual work plan.

The EDCTP2-IS shall monitor and report to the Commission on the implementation of all the activities included therein or selected following calls for proposals managed by the EDCTP2-IS.

4. Activities included in the EDCTP2 annual work plan that are not funded by the EDCTP2-IS shall be implemented in compliance with common principles to be agreed by the Participating States and the Commission, taking into account the principles set out in this Decision, in Title VI of Regulation (EU, Euratom) No 966/2012 and in Regulation (EU) No 1290/2013, in particular the principles of equal treatment, transparency, independent peer review evaluation and selection. The Participating States and the Commission shall also agree on the reporting requirements to the EDCTP2-IS, including with regard to indicators inserted into each of those activities.

Any activity funded by the EDCTP2-IS in accordance with the EDCTP2 annual work plan, or following calls for proposals managed by the EDCTP2-IS, shall be considered to be an indirect action within the meaning of Regulation (EU) No 1290/2013, and shall be implemented in accordance with Article 6 of this Decision.

5. Any communication or publication in the area of the activities of the EDCTP2 Programme, and performed in close collaboration with EDCTP2, whether undertaken by the EDCTP2-IS, a Participating State, or participants to an activity, shall be labelled or co-labelled as '[name of the activity] is part of the EDCTP2 programme supported by the European Union'.

*Article 5***Contributions from Participating States**

1. Contributions from the Participating States shall consist of the following:

(a) financial contributions to the EDCTP2-IS;

(b) in-kind contributions consisting of the costs incurred by the Participating States in implementing activities included and clearly identified in the EDCTP2 annual work plan, or in relation to the administrative budget of the EDCTP2-IS.

2. For the purpose of evaluating the contributions referred to in point (b) of paragraph 1, the costs shall be determined in accordance with the usual accounting practices and accounting standards of the Participating State concerned and to the applicable International Accounting Standards/International Financial Reporting Standards.

Article 6

Rules for participation and dissemination

1. Regulation (EU) No 1290/2013 shall apply to indirect actions selected and funded by the EDCTP2-IS on the basis of the EDCTP2 annual work plan or following calls for proposals managed by the EDCTP2-IS. In accordance with that Regulation, the EDCTP2-IS shall be considered to be a funding body and shall provide financial support to indirect actions in accordance with Annex II to this Decision.

2. By way of derogation from point (b) of Article 9(1) of Regulation (EU) No 1290/2013, the minimum number of participants shall be two legal entities established in two different Participating States and a third legal entity in a sub-Saharan African country listed in the EDCTP2 annual work plan.

3. By way of derogation from point (c) of Article 10(1) of Regulation (EU) No 1290/2013, any legal entity established in a sub-Saharan country listed in the EDCTP2 annual work plan shall be eligible for funding.

4. Where such an activity is included in the EDCTP2 annual work plan, the EDCTP2-IS may launch joint calls with third countries or their scientific and technological organisations and agencies, with international organisations or with other third parties, in particular non-governmental organisations, in accordance with the rules developed based on Article 12 of Regulation (EU) No 1290/2013.

Article 7

Agreements between the Union and the EDCTP2-IS

1. Subject to a positive *ex-ante* assessment of the EDCTP2-IS in accordance with Article 61(1) of Regulation (EU, Euratom) No 966/2012, the Commission, on behalf of the Union, shall conclude a delegation agreement and annual transfer of funds agreements with the EDCTP2-IS.

2. The delegation agreement referred to in paragraph 1 shall be concluded in accordance with Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and Article 40 of Delegated Regulation (EU) No 1268/2012. It shall also set out, *inter alia*, the following:

(a) the requirements for the EDCTP2-IS contribution regarding the performance indicators set out in Annex II to Decision 2013/743/EU;

(b) the requirements for the EDCTP2-IS contribution in relation to the monitoring referred to in Annex III to Decision 2013/743/EU;

(c) the specific performance indicators related to the functioning of the EDCTP2-IS;

(d) the requirements for the EDCTP2-IS regarding the provision of information on administrative costs and on detailed figures concerning the implementation of the EDCTP2 Programme;

(e) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations;

- (f) the arrangements for the approval or rejection by the Commission of the draft EDCTP2 annual work plan, before it is adopted by the EDCTP2-IS; and
- (g) provisions for the publication of calls for proposals by EDCTP2, in particular on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission.

Article 8

Termination, reduction or suspension of the Union's financial contribution

If the EDCTP2 Programme is not implemented or is implemented inadequately, partially or late, the Commission may terminate, proportionately reduce or suspend the Union's financial contribution in line with the actual implementation of the EDCTP2 Programme.

If the Participating States do not contribute, contribute partially or late to the financing of the EDCTP2 Programme, the Commission may terminate, proportionately reduce or suspend the Union's financial contribution, taking into account the amount of funding allocated by the Participating States to implement the EDCTP2 Programme.

Article 9

Ex-post audits

1. Ex-post audits of expenditure on indirect actions shall be carried out by the EDCTP2-IS in accordance with Article 29 of Regulation (EU) No 1291/2013.
2. The Commission may decide to carry out itself the audits referred to in paragraph 1. In such cases, it shall do so in accordance with the applicable rules, in particular the provisions of Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

Article 10

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Decision are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The EDCTP2-IS shall grant Commission staff and other persons authorised by it, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽²⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded in accordance with this Decision.
4. Contracts, grant agreements and grant decisions resulting from the implementation of this Decision shall contain provisions expressly empowering the Commission, the EDCTP2-IS, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their competences.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

5. In implementing the EDCTP2 Programme, the Participating States shall take the legislative, regulatory, administrative and other measures necessary to protect the Union's financial interests, in particular, to ensure full recovery of any amounts due to the Union in accordance with Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

Article 11

Communication of information

1. On request, the EDCTP2-IS shall send any information necessary for preparation of the reports referred to in Article 12 to the Commission.
2. The Participating States shall submit to the Commission, through the EDCTP2-IS, any information that is requested by the European Parliament, the Council or the Court of Auditors concerning the financial management of the EDCTP2 Programme.
3. The Commission shall include the information referred to in paragraph 2 of this Article in the reports referred to in Article 12.

Article 12

Evaluation

1. By 30 June 2017 the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the EDCTP2 Programme. The Commission shall prepare a report on that evaluation which includes conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The result of the interim evaluation of EDCTP2 Programme shall be taken into account in the interim evaluation of Horizon 2020.
2. At the end of the Union participation in EDCTP2 but not later than 31 December 2023, the Commission shall conduct another interim evaluation of the EDCTP2 Programme. The Commission shall prepare a report on that evaluation which is to include the results of that evaluation. The Commission shall send that report to the European Parliament and to the Council.
3. The Commission shall conduct a final evaluation of the EDCTP2 Programme by 31 December 2026. The Commission shall send the results of that evaluation to the European Parliament and to the Council.

Article 13

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 14

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 15 May 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS

ANNEX I

OBJECTIVES OF THE EDCTP2 PROGRAMME

EDCTP2 shall contribute to the following objectives:

(1) General Objective

EDCTP2 shall contribute to the reduction of the social and economic burden of poverty-related diseases in developing countries, in particular in sub-Saharan Africa, by accelerating the clinical development of effective, safe, accessible, suitable and affordable medical interventions ⁽¹⁾ for poverty-related diseases, in partnership with sub-Saharan Africa.

(2) Specific Objectives

In order to contribute to the general objective, EDCTP2 shall achieve the following specific objectives:

- (a) an increased number of new or improved medical interventions for HIV/AIDS, tuberculosis, malaria and other poverty-related diseases, including neglected ones, and by the end of the programme to have delivered at least one new medical intervention; to have issued approximately 30 guidelines for improved or extended use of existing medical interventions; and to have progressed the clinical development of approximately 20 candidate medical interventions;
- (b) strengthened cooperation with sub-Saharan African countries, in particular on building their capacity for conducting clinical trials in compliance with fundamental ethical principles and relevant national, Union and international legislation, including the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights and its Supplementary Protocols, the World Medical Association's Declaration of Helsinki of 2008 and the standards on good clinical practice adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH);
- (c) better coordination, alignment and, where appropriate, integration of relevant national programmes to increase the cost-effectiveness of European public investments. Moreover, the research priorities should be established in an objective-orientated manner in order to accelerate results and contribute to the control and eradication of poverty-related diseases, including neglected ones;
- (d) extended international cooperation with other public and private partners to ensure that the impact of all research is maximised and that synergies can be taken into consideration and achieve leveraging of resources and investments;
- (e) an increased impact due to effective cooperation with relevant Union initiatives, including its development assistance.

(3) Operational Indicators and Objectives

In order to reach the specific objectives set out in point 2, the following indicators shall be monitored during the course of the EDCTP2 programme:

- (a) Support clinical trials on new or improved medical interventions for poverty-related diseases, including neglected ones, through partnerships between European and developing countries, in particular sub-Saharan Africa:

Indicator: increase the number of supported clinical trials to at least 150, compared to 88 under EDCTP1, that lead to new products, processes, methodologies, diagnostics, treatments or preventions.

⁽¹⁾ For the purpose of this decision, 'medical interventions' encompass measures whose purpose is to improve or sustain health or alter the course of a disease, in particular prevention and treatment based on medicinal products such as drugs, microbicides or vaccines, including their delivery modality, follow up of treatment and prevention in the affected population as well as medical diagnostics to detect and monitor disease/health evolution.

Indicator: sustain or increase the proportion of clinical trials funded by the EDCTP2-IS with African leadership.

Indicator: aim to increase the number of peer-reviewed scientific articles published to three times that of EDCTP1.

- (b) Support research capacity-building activities in sub-Saharan Africa enabling clinical trials to be conducted and help to reduce the brain drain:

Indicator: aim to sustain or increase the participation of sub-Saharan African countries in the EDCTP2 Programme.

Indicator: increase the number of fellowships to sub-Saharan African researchers and MSc/PhD students from 400 under EDCTP1, strongly encouraging and supporting them to continue their research career in sub-Saharan Africa following their fellowship.

Indicator: increase the number of capacity-building activities supported for conducting clinical trials in sub-Saharan Africa from 74 under EDCTP1.

- (c) Develop a research agenda for EDCTP2 based on common criteria for priority setting and common evaluation, whilst recognising that contributions from national programmes and EDCTP may differ.

Target: at least 50 % of the public investment by Participating States are integrated, aligned or coordinated through the EDCTP2 Programme.

- (d) Ensure efficiency of the implementation of the EDCTP2 Programme:

Target: administrative costs are below 5 % of the EDCTP2-IS budget.

- (e) Establish cooperation and launch joint actions with other public and private funders.

Target: increase the contributions received from developing countries to at least EUR 30 000 000 compared to EUR 14 000 000 under EDCTP1.

Target: obtain additional contributions, either public or private, of at least EUR 500 000 000, compared to EUR 71 000 000 under EDCTP1.

- (f) Establish cooperation and launch joint actions with Union, national and international development assistance initiatives, including where appropriate, relevant WHO initiatives, in order to ensure complementarity and increase the impact of the results of EDCTP-funded activities.
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ANNEX II

ACTIVITIES AND IMPLEMENTATION OF THE EDCTP2 PROGRAMME**(1) Activities**

The EDCTP2 Programme shall include the following activities:

- (a) promoting networking, coordination, alignment, collaboration and integration of national research programmes and activities on poverty-related diseases, including neglected ones, at scientific, management and financial level;
- (b) supporting clinical trial research and related activities on poverty-related diseases, in particular HIV/AIDS, malaria, tuberculosis and other poverty-related diseases, including neglected ones;
- (c) fostering capacity development for clinical trials and related research in developing countries, in particular in Sub-Saharan Africa, through grants for: career development of junior and senior fellows, promoting mobility, staff exchange grants, research training networks, strengthening ethics and regulatory bodies, mentoring and partnerships at individual or institutional or regional level;
- (d) establishing cooperation and launching joint actions with other public and private funders;
- (e) assuring awareness, endorsement and acknowledgment of the EDCTP2 Programme and its activities through advocacy and communication, not only at Union level and in developing countries, but also at global level.

(2) Programme definition and implementation

The EDCTP2 Programme shall be implemented by the EDCTP2-IS on the basis of an annual work plan and a multiannual strategic work plan prepared by the EDCTP2-IS, in consultation with the relevant stakeholders, and adopted by the General Assembly of the EDCTP2-IS following international peer-review and subject to the prior approval by the Commission.

The annual work plan shall identify topics and activities to be implemented, including calls for proposals to be launched by EDCTP-IS to select and fund indirect actions, as well as the budgets and EDCTP2 funding for those topics and activities. Where appropriate, EDCTP2 may exchange information with other public or private initiatives, including those under Horizon 2020.

The annual work plan shall differentiate between the activities funded or co-funded by the Union and those funded by Participating States or other revenues.

The multiannual strategic work plan shall set a common strategic research agenda which shall be prepared and updated on an annual basis.

EDCTP2-IS shall monitor the implementation of the activities included in the work plan, including indirect actions selected through calls for proposals it manages. It shall allocate and manage funding to those in accordance with this Decision and the effective implementation of activities selected and identified in the previous work plans.

(3) Deliverables expected from the implementation of the EDCTP2 Programme

An annual report shall be provided by the EDCTP2-IS, which shall give a detailed overview of the implementation of the EDCTP2 Programme. That overview shall provide information on each activity selected in accordance with the work plan, including indirect actions selected through calls for proposals managed by the EDCTP2-IS. Such information shall include a description of each activity, including indirect action, its budget, the value of the funding allocated to it if any, and its status.

With regard to calls managed by the EDCTP2-IS, the annual report shall moreover include information on the number of projects submitted and selected for funding, the detailed use of the Union's financial contribution, the distribution of national and other contributions including specification on the type of in kind contributions, the types of participants, country statistics, brokerage events and dissemination activities. The annual report may also include, when appropriate, information on measures taken to facilitate access to products stemming from EDCTP2.

The annual report shall also include information on the progress towards achieving the EDCTP2 Programme objectives set out in Annex I.

In addition, the EDCTP2-IS shall provide any report and information foreseen by this Decision and the agreement concluded with the Union.

ANNEX III

GOVERNANCE OF THE EDCTP2 PROGRAMME

The organisational structure of the EDCTP2 Programme shall be as follows:

- (1) The EDCTP2-IS shall be governed by a general assembly ('GA'), in which all Participating States are represented.

The GA's principal responsibility shall be to ensure that all necessary activities are undertaken to achieve the objectives of the EDCTP2 Programme, and that its resources are properly and efficiently managed. It shall adopt the annual work plan.

The GA shall decide by consensus. Failing consensus, the GA shall take its decisions by a majority of at least 75 % of the votes.

The Union, represented by the Commission, shall be invited to all GA meetings as an observer, and shall receive all necessary documents. It may take part in discussions.

- (2) The GA shall appoint a Management Board that shall supervise the secretariat of the EDCTP2-IS ('SEC') established by the GA as the executive body of the EDCTP2 Programme. The Management Board shall consist of such number of Board Members as the GA may determine, but not less than five.

SEC shall have at least the following tasks:

- (a) execute the annual work plan;
- (b) provide support to the GA;
- (c) monitor and report on the implementation of the EDCTP2 Programme;
- (d) manage the financial contributions from the Participating States, the Union and any third party, and report on their use to the GA and the Union;
- (e) increase the visibility of the EDCTP2 Programme through advocacy and communication;
- (f) liaise with the Commission in accordance with the delegation agreement referred to in Article 7.

- (3) A Scientific Advisory Committee ('SAC') shall advise the GA on the strategic priorities of the EDCTP2 Programme.

The SAC shall be appointed by the GA and consist of European and African independent experts competent in areas relevant to the EDCTP2 Programme, taking into account gender balance.

The SAC shall have the following tasks:

- (a) advise the GA on priorities and strategic needs regarding clinical trials in Africa;
- (b) advise the GA on the content, scope and dimension of the EDCTP2 draft annual work plan, including diseases covered and approaches to be adopted, from a scientific and technical standpoint;
- (c) review the scientific and technical aspects of the implementation of the EDCTP2 Programme and deliver an opinion on its annual report.

In exercising its tasks, the SAC shall monitor and promote high standards of ethical conduct of clinical trials and engage with vaccine regulatory authorities.

The SAC may recommend to the GA the setting up of scientific subcommittees, task forces and working groups.

The GA shall establish the number of SAC members, their voting rights and the arrangements for their appointment in accordance with Article 40 of Regulation (EU) No 1290/2013. The GA may set up specialised working groups under the SAC with additional independent experts for specific tasks.

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) No 557/2014**of 6 May 2014****establishing the Innovative Medicines Initiative 2 Joint Undertaking****(Text with EEA relevance)**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Whereas:

- (1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council ⁽¹⁾.
- (2) Council Decision 2006/971/EC ⁽²⁾ identified specific public-private partnerships to be supported, including a public-private partnership on Innovative Medicines Joint Technology Initiative between the Union and the European Federation of Pharmaceutical Industries and Associations ('EFPIA').
- (3) Commission Communication entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth' (the 'Europe 2020 Strategy'), endorsed by the European Parliament and the Council, emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union.

⁽¹⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

⁽²⁾ Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 400 30.12.2006, p. 86).

- (4) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽¹⁾ established Horizon 2020 — The Framework Programme for Research and Innovation (2014-2020) ('Horizon 2020'). Horizon 2020 aims to achieve a greater impact with respect to research and innovation by combining Horizon 2020 and private sector funds in public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate. In accordance with Regulation (EU) No 1291/2013, Union involvement in those partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union under Decision No 1982/2006/EC.
- (5) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU ⁽²⁾, further support should be provided to joint undertakings established under Decision No 1982/2006/EC under the conditions specified in Decision 2013/743/EU.
- (6) The Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines ('IMI Joint undertaking') set up by Council Regulation (EC) No 73/2008 ⁽³⁾ has demonstrated the effective mobilisation of resources by bringing together several partners from the pharmaceutical industry, academia, small and medium-sized enterprises ('SMEs'), patient organisations and regulators.
- (7) The IMI Joint Undertaking has also stepped up cooperation between stakeholders in the health research and innovation field by allowing access to other partners' expertise and increasing the collaboration between the pharmaceutical industry and other stakeholders in the Union by developing comprehensive research agendas and horizontal policy coordination. No other European or national programme has enabled cross-company collaboration within the pharmaceutical sector on the scale that has been achieved by the Joint Technology Initiative on Innovative Medicines. The interim evaluation of the IMI Joint Undertaking underlined that it enables mutual learning and provides an opportunity to improve the reciprocal understanding of the stakeholders, thus benefiting all parties, and that it has significantly contributed to the transition towards an open innovation model in biopharmaceutical research.
- (8) Research related to the future of medicine should be undertaken in areas where combination of societal, public health and biomedical industry competitiveness goals requires the pooling of resources and fostering collaboration between the public and private sectors, with the involvement of SMEs. The scope of the initiative should be expanded to cover all areas of life science research and innovation of public health interest, as identified by the World Health Organisation report on priority medicines for Europe and the World, which has been updated in 2013. The initiative should consequently seek to involve a broader range of partners, including mid-caps, from different sectors, such as biomedical imaging, medical information technology, diagnostic and animal health industries. A wider participation would help to advance the development of new approaches and technologies for the prevention, diagnosis and treatment of diseases with high impact on public health.
- (9) A new joint undertaking should be established for the implementation of the Joint Technology Initiative on Innovative Medicines ('IMI2 Joint Undertaking') and should replace and succeed the IMI Joint Undertaking. The IMI2 Joint Undertaking should seek to foster the capacity of smaller actors such as research organisations, universities and SMEs for participating in open innovation models and to promote the involvement of SMEs in its activities, in line with its objectives.

⁽¹⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

⁽²⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the Specific Programme implementing Horizon 2020 (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

⁽³⁾ Council Regulation (EC) No 73/2008 of 20 December 2007 setting up the Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines (OJ L 30, 4.2.2008, p. 38).

- (10) The continuation of this initiative should also take into account the experience acquired from the operations of the IMI Joint Undertaking including the results of its interim evaluation and stakeholders' recommendations and should be implemented using a structure and rules that are more fit for its purpose in order to enhance efficiency and ensure simplification at operational level. To that effect, the IMI2 Joint Undertaking should adopt financial rules specific to its needs in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾.
- (11) The Members other than the Union of the IMI2 Joint Undertaking have agreed to pursue the research activities in the area of activities of the IMI2 Joint Undertaking within a structure better adapted to the nature of a public-private partnership. It is appropriate that the Members other than the Union of the IMI2 Joint Undertaking accept the Statutes contained in the Annex to this Regulation by means of a letter of endorsement.
- (12) As a means to further develop the IMI2 Joint Undertaking's objectives, membership should also be open to other legal entities. Moreover, legal entities interested in supporting the IMI2 Joint Undertaking's objectives in their specific areas of research should be offered the possibility to become Associated Partners of the IMI2 Joint Undertaking.
- (13) It should be possible for any eligible institution to become a participant or a coordinator in the selected projects.
- (14) To achieve its objectives, the IMI2 Joint Undertaking should provide financial support to participants mainly in the form of grants following open and competitive calls for proposals.
- (15) The participants should be fully informed about applicable legal and procedural conditions, including those laid down on the basis of Article 1(3) of Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽²⁾, especially regarding eligibility for funding and the exploitation and dissemination of results. Those conditions should be consistent and reasonable and should ensure equitable and fair treatment of participants regarding ownership of and access to the results generated within the IMI2 Joint Undertaking's projects.
- (16) The contributions from the Members other than the Union should relate to the administrative costs of the IMI2 Joint Undertaking and, together with the contributions from the Associated Partners for their specific area of research, to the co-financing required to carry out research and innovation actions supported by the IMI2 Joint Undertaking.
- (17) Participation in indirect actions funded by the IMI2 Joint Undertaking should comply with Regulation (EU) No 1290/2013. The IMI2 Joint Undertaking should, moreover, ensure consistent application of those rules based on relevant measures adopted by the Commission.
- (18) The IMI2 Joint Undertaking should also use electronic means managed by the Commission to ensure openness and transparency and facilitate participation. Therefore, the calls for proposals launched by the IMI2 Joint Undertaking should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the IMI2 Joint Undertaking for inclusion in Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽²⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

- (19) The Union financial contribution should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012 ⁽¹⁾.
- (20) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and disproportionate amounts of documentation and reporting should be avoided. Audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013.
- (21) The financial interests of the Union and of the other Members of the IMI2 Joint Undertaking should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (22) The Commission's internal auditor should exercise the same powers over the IMI2 Joint Undertaking as those exercised in respect of the Commission.
- (23) In view of the specific nature and the current status of the joint undertakings, and to ensure continuity with the Seventh Framework Programme, the joint undertakings should continue to be subject to a separate discharge. By way of derogation from Articles 60(7) and 209 of Regulation (EU, Euratom) No 966/2012, discharge for the implementation of the budget of the IMI2 Joint Undertaking should therefore be given by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the Union financial contribution to the IMI2 Joint Undertaking but they should be aligned to the extent possible to the ones foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.
- (24) The IMI2 Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner to its appropriate bodies as well as promoting its activities, including information and dissemination activities to the wider public. The rules of procedure of the bodies of the IMI2 Joint Undertaking should be made publicly available.
- (25) The Scientific Panel for Health was set up by Horizon 2020 as a science-led stakeholder platform, in order to elaborate scientific input, to provide a coherent scientific focused analysis of research and innovation bottlenecks and opportunities related to the Horizon 2020 societal challenge on health, demographic change and well-being, to contribute to the definition of its research and innovation priorities and to encourage Union-wide scientific participation. Through active cooperation with stakeholders, it helps to build capabilities and to foster knowledge-sharing and stronger collaboration across the Union in that field. The IMI2 Joint Undertaking should, therefore, collaborate and exchange information with the Scientific Panel for Health, where appropriate.
- (26) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore the IMI2 Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the IMI2 Joint Undertaking and underpin smart specialisation efforts.
- (27) The IMI Joint Undertaking was set up for a period up to 31 December 2017. The IMI2 Joint Undertaking should provide continued support to the Innovative Medicines research programme by implementing the remaining actions initiated under Regulation (EC) No 73/2008 in accordance with that Regulation. The transition from the IMI Joint Undertaking to the IMI2 Joint Undertaking should be aligned and synchronised with the transition from the Seventh Framework programme to Horizon 2020 to ensure optimal use of the funding available for research. In the interest of legal certainty and clarity, Regulation (EC) No 73/2008 should therefore be repealed and transitional provisions should be set out.

⁽¹⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (28) Given the aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals by the IMI2 Joint Undertaking should take into account the duration of Horizon 2020.
- (29) Since the objective of this Regulation, namely establishment of the IMI2 Joint Undertaking in order to strengthen industrial research and innovation across the Union cannot be sufficiently achieved by the Member States but can rather, by reason of avoiding duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

1. For the implementation of the Joint Technology Initiative on Innovative Medicines, a joint undertaking within the meaning of Article 187 of the Treaty on the Functioning of the European Union ('IMI2 Joint Undertaking'), is established for a period until 31 December 2024. In order to take into account the duration of Horizon 2020, calls for proposals by the IMI2 Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases calls for proposals may be launched by 31 December 2021.
2. The IMI2 Joint Undertaking shall replace and succeed the IMI Joint Undertaking, established by Regulation (EC) No 73/2008.
3. The IMI2 Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.
4. The IMI2 Joint Undertaking shall have legal personality. In each of the Member States, it shall have the most extensive legal capacity accorded to legal persons under the laws of those Member States. It may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings.
5. The seat of the IMI2 Joint Undertaking shall be located in Brussels, Belgium.
6. The Statutes of the IMI2 Joint Undertaking are set out in the Annex.

Article 2

Objectives

The IMI2 Joint Undertaking shall have the following objectives:

- (a) to support, in accordance with Article 25 of Regulation (EU) No 1291/2013, the development and implementation of pre-competitive research and of innovation activities of strategic importance to the Union's competitiveness and industrial leadership or to address specific societal challenges in particular as described in parts II and III of Annex I to Decision 2013/743/EU, and in particular the challenge to improve European citizens' health and well-being;
- (b) to contribute to the objectives of the Joint Technology Initiative on Innovative Medicines, in particular to:
 - (i) increase the success rate in clinical trials of priority medicines identified by the World Health Organisation;
 - (ii) where possible, reduce the time to reach clinical proof of concept in medicine development, such as for cancer, immunological, respiratory, neurological and neurodegenerative diseases;

- (iii) develop new therapies for diseases for which there is a high unmet need, such as Alzheimer's disease and limited market incentives, such as antimicrobial resistance;
- (iv) develop diagnostic and treatment biomarkers for diseases clearly linked to clinical relevance and approved by regulators;
- (v) reduce the failure rate of vaccine candidates in phase III clinical trials through new biomarkers for initial efficacy and safety checks;
- (vi) improve the current drug development process by providing support for the development of tools, standards and approaches to assess efficacy, safety and quality of regulated health products.

Article 3

Union financial contribution

1. The Union financial contribution to the IMI2 Joint Undertaking, including EFTA appropriations, to cover administrative costs and operational costs shall be up to EUR 1 638 000 000 and shall consist of the following:

- (a) up to EUR 1 425 000 000 to match the contribution of European Federation of Pharmaceutical Industries and Associations ('EFPIA'), or its constituent entities or their affiliated entities;
- (b) up to EUR 213 000 000 to match additional contributions from other Members, Associated Partners, or from their constituent entities or their affiliated entities.

The contribution of the Union shall be paid from the appropriations in the general budget of the Union allocated to Horizon 2020 Specific Programme implementing Horizon 2020 in accordance with point (c)(iv) of Article 58(1) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 for bodies referred to in Article 209 of that Regulation.

2. The arrangements for the Union financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the IMI2 Joint Undertaking.

3. The delegation agreement referred to in paragraph 2 of this Article shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of the Delegated Regulation (EU) No 1268/2012 as well as, inter alia, the following:

- (a) the requirements for the IMI2 Joint Undertaking's contribution regarding the relevant performance indicators referred to in Annex II to Decision 2013/743/EU;
- (b) the requirements for the IMI2 Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision 2013/743/EU;
- (c) the specific performance indicators related to the functioning of the IMI2 Joint Undertaking;
- (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations including on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (e) provisions for the publication of calls for proposals of the IMI2 Joint Undertaking also on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;

- (f) the use of and changes to human resources, in particular the recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

Article 4

Contributions of Members other than the Union and of Associated Partners

1. EFPIA shall make or arrange for its constituent entities or their affiliated entities to make contributions of at least EUR 1 425 000 000. Other Members other than the Union and Associated Partners shall make, or arrange for their constituent entities or their affiliated entities to make, the contributions corresponding to the amounts they have committed when becoming a Member or an Associated Partner.
2. The contributions referred to in paragraph 1 of this Article shall consist of contributions to the IMI2 Joint Undertaking as set out in Article 13(2), point (b) of Article 13(3) and point (c) of Article 13(3) of the Statutes. In-kind contributions consisting of costs incurred in third countries other than countries associated to Horizon 2020 shall be justified and relevant to the objectives set out in Article 2 of this Regulation, and shall not exceed 30 % of the eligible costs at the level of the IMI2 programme, incurred by the Members other than the Union and by the Associated Partners.
3. The Members other than the Union and Associated Partners shall report each year by 31 January to the Governing Board of the IMI2 Joint Undertaking on the value of the contributions referred to in paragraph 2 made in each of the previous financial years. The States Representatives Group shall also be informed thereof in a timely manner.
4. For the purpose of valuing the contributions referred to in point (b) of Article 13(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the IMI2 Joint Undertaking should there be any uncertainty arising from the certification. In case of remaining uncertainties, it may be audited by the IMI2 Joint Undertaking.
5. The Commission may terminate, proportionally reduce or suspend the Union financial contribution to the IMI2 Joint Undertaking or trigger the winding up procedure referred to in Article 21(2) of the Statutes if those Members and Associated Partners, their constituent entities or their affiliated entities do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraph 2 of this Article.

Article 5

Financial rules

Without prejudice to Article 12 of this Regulation, the IMI2 Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014 ⁽¹⁾.

Article 6

Staff

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽²⁾ (hereinafter 'Staff Regulations' and 'Conditions of Employment') and the rules adopted jointly by the institutions of the Union for the purpose of applying Staff Regulations and Conditions of Employment shall apply to the staff of the IMI2 Joint Undertaking.

⁽¹⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

2. The Governing Board shall exercise, with respect to the staff of the IMI2 Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and the powers conferred by the Conditions of Employment on the authority empowered to conclude contract (hereinafter 'the appointing authority powers').

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation may be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any subsequent sub-delegation of those powers by the latter. In such cases the Governing Board shall exercise the appointing authority powers itself or shall delegate them to one of its members or to a staff member of the IMI2 Joint Undertaking other than the Executive Director.

3. The Governing Board shall adopt appropriate implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations.

4. The staff resources shall be determined in the staff establishment plan of the IMI2 Joint Undertaking indicating the number of temporary posts by function group and by grade and the number of contract staff expressed in full-time equivalents, in line with its annual budget.

5. The staff of the IMI2 Joint Undertaking shall consist of temporary staff and contract staff.

6. All costs related to the staff shall be borne by the IMI2 Joint Undertaking.

Article 7

Seconded national experts and trainees

1. The IMI2 Joint Undertaking may make use of seconded national experts and trainees not employed by the IMI2 Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to the information on staff as referred to in Article 6(4) in line with the annual budget.

2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the IMI2 Joint Undertaking and on the use of trainees.

Article 8

Privileges and Immunities

The Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, shall apply to the IMI2 Joint Undertaking and its staff.

Article 9

Liability of the IMI2 Joint Undertaking

1. The contractual liability of the IMI2 Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.

2. In the case of non-contractual liability, the IMI2 Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.

3. Any payment by the IMI2 Joint Undertaking in respect of the liability referred to in paragraphs 1 or 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the IMI2 Joint Undertaking and shall be covered by its resources.
4. The IMI2 Joint Undertaking shall be solely responsible for meeting its obligations.

Article 10

Jurisdiction of the Court of Justice of the European Union and applicable law

1. The Court of Justice of the European Union shall have jurisdiction:
 - (a) pursuant to any arbitration clause contained in agreements or contracts concluded by the IMI2 Joint Undertaking or in its decisions;
 - (b) in disputes relating to compensation for damage caused by the staff of the IMI2 Joint Undertaking in the performance of their duties;
 - (c) in any dispute between the IMI2 Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment.
2. Regarding any matter not covered by this Regulation or by other Union legal acts, the law of the State where the seat of the IMI2 Joint Undertaking is located shall apply.

Article 11

Evaluation

1. By 30 June 2017 the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the IMI2 Joint Undertaking. The Commission shall prepare a report on that evaluation which includes conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The results of the interim evaluation of the IMI2 Joint Undertaking shall be taken into account in the in-depth assessment and in the interim evaluation referred to in Article 32 of Regulation (EU) No 1291/2013.
2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1 of this Article the Commission may act in accordance with Article 4(5) or take any other appropriate action.
3. Within six months after the winding up of the IMI2 Joint Undertaking, but no later than two years after the triggering of the winding up procedure referred to in Article 21 of the Statutes, the Commission shall conduct a final evaluation of the IMI2 Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

Article 12

Discharge

By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, the discharge for the implementation of the budget of the IMI2 Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council in accordance with the procedure provided for in the financial rules of the IMI2 Joint Undertaking.

Article 13

Ex post audits

1. Ex post audits of expenditure on indirect actions shall be carried out by the IMI2 Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of Horizon 2020 indirect actions.

2. The Commission may decide to carry out the audits referred to in paragraph 1 itself of those participants which have received funding from the IMI2 Joint Undertaking. In such cases, it shall do so in accordance with the applicable rules, in particular the provisions of Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

Article 14

Protection of the financial interests of the Members

1. The IMI2 Joint Undertaking shall grant Commission staff and other persons authorised by the IMI2 Joint Undertaking or the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.

2. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement, decision or contract funded under this Regulation.

3. Without prejudice to paragraphs 1 and 2 agreements, decisions and contracts resulting from the implementation of this Regulation shall contain provisions expressly empowering:

- (a) the IMI2 Joint Undertaking and OLAF to conduct audits and investigations, for the purposes described in paragraphs 1 and 2, in accordance with their respective competences; and
- (b) the Commission and the Court of Auditors to conduct audits, for the purposes described in paragraphs 1 and 2, of the recipients of funding from the IMI2 Joint Undertaking, in accordance with their respective competences.

4. The IMI2 Joint Undertaking shall ensure that the financial interests of its Members are adequately protected by carrying out or commissioning appropriate internal and external controls.

5. The IMI2 Joint Undertaking shall accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by the European Anti-fraud Office (OLAF) ⁽³⁾. The IMI2 Joint Undertaking shall adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

Article 15

Confidentiality

Without prejudice to Article 16, the IMI2 Joint Undertaking shall ensure the protection of sensitive information the disclosure of which could damage the interests of its Members or of participants in the activities of the IMI2 Joint Undertaking.

Article 16

Transparency

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽⁴⁾ shall apply to documents held by the IMI2 Joint Undertaking.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

⁽⁴⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

2. The IMI2 Joint Undertaking Governing Board may adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.

3. Without prejudice to Article 10 of this Regulation, decisions taken by the IMI2 Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 of the Treaty on the Functioning of the European Union.

Article 17

Rules for participation and dissemination

Regulation (EU) No 1290/2013 shall apply to the actions funded by the IMI2 Joint Undertaking. In accordance with that Regulation, the IMI2 Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in Article 1 of the Statutes.

Article 18

Support from the host State

An administrative agreement may be concluded between the IMI2 Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the IMI2 Joint Undertaking.

Article 19

Repeal and transitional provisions

1. Regulation (EC) No 73/2008 is repealed.

2. Without prejudice to paragraph 1, actions initiated under Regulation (EC) No 73/2008 and financial obligations related to those actions shall continue to be governed by that Regulation until their completion.

The actions arising from calls for proposals provided for in annual implementation plans adopted under Regulation (EC) No 73/2008 shall also be regarded as actions initiated under that Regulation.

The interim evaluation referred to in Article 11(1) of this Regulation shall include a final evaluation of the IMI Joint Undertaking under Regulation (EC) No 73/2008.

3. This Regulation shall not affect the rights and obligations of staff engaged under Regulation (EC) No 73/2008.

The employment contracts of staff referred to in the first subparagraph may be renewed under this Regulation in accordance with the Staff Regulations and Conditions of Employment.

The Executive Director appointed on the basis of Regulation (EC) No 73/2008 shall, for the remaining period of term of office, be assigned to the functions of the Executive Director as provided for in this Regulation with effect from 27 June 2014. The other conditions of contract shall remain unchanged.

4. Unless otherwise agreed between the Members of the IMI Joint Undertaking pursuant to Regulation (EC) No 73/2008, all rights and obligations including assets, debts or liabilities of the Members of the IMI Joint Undertaking pursuant to Regulation (EC) No 73/2008 shall be transferred to the Members of the IMI2 Joint Undertaking pursuant to this Regulation.

5. Any unused appropriations under Regulation (EC) No 73/2008 shall be transferred to the IMI2 Joint Undertaking.

*Article 20***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 May 2014.

For the Council
The President
G. STOURNARAS

ANNEX

STATUTES OF THE INNOVATIVE MEDICINES INITIATIVE 2 JOINT UNDERTAKING

Article 1

Tasks

The IMI2 Joint Undertaking shall carry out the following tasks:

- (a) mobilise the public and private sector resources needed to achieve the objectives of the IMI2 Joint Undertaking;
- (b) regularly review and make any necessary adjustments to the Strategic Research Agenda of the IMI2 Joint Undertaking in light of scientific developments occurring during its implementation;
- (c) establish and develop close and long-term cooperation between the Union, other Members, Associated Partners, and the other stakeholders such as other industries, regulatory bodies, patient organisations, academia and clinical centres, as well as cooperation between industry and academia;
- (d) facilitate coordination with European, national and international activities in this area, and to communicate and interact with the Member States and the countries associated with Horizon 2020;
- (e) effectively support pre-competitive research and innovation in life sciences mainly through grants; if clinical trials are necessary, priority shall be given to phases I and II; phases III and IV shall be funded in justified cases where it is demonstrated that unmet medical needs exist, and if they are either non-competitive or pre-competitive;
- (f) define and carry out the IMI2 Joint Undertaking annual work plan mainly through competitive calls for proposals;
- (g) initiate competitive calls for proposals and any other necessary procedure for funding, evaluate proposals, award funding to projects according to the applicable rules, within the limits of available funds;
- (h) publish information on the projects, including participating entities and the amount of the financial contribution of the IMI2 Joint Undertaking per participant;
- (i) engage in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of the Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (j) liaise with a broad range of stakeholders including research organisations and universities;
- (k) organise regular communication, including at least one annual meeting with interest groups and with its stakeholders via the Stakeholder Forum to ensure openness and transparency of the research activities of the IMI2 Joint Undertaking;
- (l) any other task needed to achieve the objectives referred to in Article 2 of this Regulation.

Article 2

Members and Associated Partners

1. The Members of the IMI2 Joint Undertaking shall be:

- (a) the Union, represented by the Commission;

(b) upon acceptance of these Statutes by means of a letter of endorsement, the European Federation of Pharmaceutical Industries and Associations ('EFPIA').

2. Provided that it contributes to the funding referred to in Article 13 of these Statutes to achieve the objectives of the IMI2 Joint Undertaking set out in Article 2 of this Regulation and accepts these Statutes, any legal entity that directly or indirectly supports research and innovation in a Member State or in a country associated with Horizon 2020 may apply to become a Member of the IMI2 Joint Undertaking.

3. Constituent entities of a Member are the entities that constitute each Member of the IMI2 Joint Undertaking other than the Union, according to that Member's Statutes.

4. Upon acceptance of these Statutes by means of a letter of endorsement, any legal entity other than a Member or a constituent entity of a Member or any affiliated entity of either, supporting the objectives of the IMI2 Joint Undertaking in its specific area of research, in a Member State or in a country associated with Horizon 2020, may apply to become an Associated Partner of the IMI2 Joint Undertaking. The letter of endorsement shall detail the scope of the association in terms of content, activities and duration.

5. Associated Partners shall contribute in the same manner as Members other than the Union to the IMI2 Joint Undertaking's operational costs, in accordance with Article 13 of these Statutes.

The letter of endorsement shall detail the Associated Partners' contribution to IMI2 Joint Undertaking, that the Union will match, in accordance with Articles 3 and 4 of this Regulation.

Article 3

Changes to membership and to association

1. Any application to become a Member or an Associated Partner of the IMI2 Joint Undertaking shall be addressed to the Governing Board. In the case of application to become a Member, the application shall be accompanied by a proposal to adapt the composition of the Governing Board.

2. The Governing Board shall assess the application taking into account the relevance and the potential added value of the applicant for the achievement of the objectives of the IMI2 Joint Undertaking and shall decide on the application.

3. Any Member or Associated Partner may terminate its membership of or association to the IMI2 Joint Undertaking. The termination shall become effective and irrevocable six months after notification to the other Members and Associated Partners. As of then, the former Member or Associated Partner shall be discharged from any obligations other than those approved or incurred by the IMI2 Joint Undertaking prior to terminating the membership or association.

4. Membership of or association to the IMI2 Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.

5. Upon any change to membership or association pursuant to this Article, the Commission shall immediately publish on its website an updated list of Members and Associated Partners of the IMI2 Joint Undertaking together with the date of such change.

Article 4

Bodies of the IMI2 Joint Undertaking

1. The bodies of the IMI2 Joint Undertaking shall be:

(a) the Governing Board;

(b) the Executive Director;

- (c) the Scientific Committee;
- (d) the States Representatives Group;
- (e) the Stakeholder Forum.

2. The Scientific Committee, the States Representatives Group and the Stakeholder Forum shall be advisory bodies of the IMI2 Joint Undertaking.

Article 5

Composition of the Governing Board

The Governing Board shall be composed of five representatives per Member.

Article 6

Functioning of the Governing Board

1. Without prejudice to paragraph 2, each Member shall have a percentage out of 100 voting rights corresponding to the percentage of its contribution to the IMI2 Joint Undertaking.

The Union shall hold 50 % of the voting rights. The voting rights of the Union shall be indivisible. Each Member may allocate its voting rights among its representatives in the Governing Board. The Members shall use their best efforts to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75 % of all votes including the votes of those who are absent.

The chairperson of the Governing Board shall be appointed on a rotating annual basis by the Union and the other Members, in turn.

2. The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of any Member or at the request of the chairperson. The meetings of the Governing Board shall be convened by its chairperson and shall normally take place at the seat of the IMI2 Joint Undertaking.

The Executive Director shall take part in the deliberations, but shall have no voting rights.

The Governing Board shall invite any Associated Partner to take part in deliberations of the Governing Board for those points on the agenda that concern its association. Associated Partners shall have no voting rights.

The chairperson of the States Representatives Group shall attend meetings of the Governing Board and take part in the deliberations but shall have no voting rights.

The chairperson of the Scientific Committee shall have the right, whenever issues falling within its tasks are discussed, to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

The Governing Board may invite, on a case-by-case basis, other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union.

3. The representatives of the Members shall not be personally liable for actions they have undertaken in their capacity as representatives on the Governing Board.

4. The Governing Board shall adopt its own rules of procedure.

*Article 7***Tasks of the Governing Board**

1. The Governing Board shall have overall responsibility for the strategic orientation and the operations of the IMI2 Joint Undertaking and shall supervise the implementation of its activities.
2. The Commission, within its role in the Governing Board, shall seek to ensure coordination between the activities of the IMI2 Joint Undertaking and the relevant activities of Horizon 2020 with a view to promoting synergies when identifying priorities covered by collaborative research.
3. The Governing Board shall in particular carry out the following tasks:
 - (a) assess, accept or reject applications for a membership or association in accordance with Article 3 of these Statutes;
 - (b) decide on the termination of the membership or association in the IMI2 Joint Undertaking of any Member or Associated Partner that does not fulfil its obligations;
 - (c) adopt the financial rules of the IMI2 Joint Undertaking in accordance with Article 5 of this Regulation;
 - (d) adopt the annual budget of the IMI2 Joint Undertaking, including the corresponding staff establishment plan indicating the number of temporary posts by function group and by grade as well as the number of contract staff and seconded national experts expressed in full-time equivalents;
 - (e) exercise the appointing authority powers with respect to the staff, in accordance with Article 6(2) of this Regulation;
 - (f) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
 - (g) approve the organisational structure of the Programme Office upon recommendation of the Executive Director;
 - (h) adopt the annual work plan and the corresponding expenditure estimates, proposed by the Executive Director in close cooperation with advisory groups, after having consulted the Scientific Committee and the States Representatives Group;
 - (i) approve the annual activity report, including the corresponding expenditure;
 - (j) arrange, as appropriate, for the establishment of an internal audit capability of the IMI2 Joint Undertaking;
 - (k) approve the calls for proposals as well as, where appropriate, the related rules for submission, evaluation, selection, award and evaluation review procedures, proposed by the Executive Director in close cooperation with advisory groups;
 - (l) approve the list of proposals selected for funding;
 - (m) establish the IMI2 Joint Undertaking's communications policy upon recommendation of the Executive Director;
 - (n) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 6(3) of this Regulation;

- (o) where appropriate, establish rules on the secondment of national experts to the IMI2 Joint Undertaking and on the use of trainees in accordance with Article 7 of this Regulation;
- (p) where appropriate, set up advisory groups in addition to the bodies of the IMI2 Joint Undertaking;
- (q) where appropriate, submit to the Commission a request to amend this Regulation proposed by a Member of the IMI2 Joint Undertaking;
- (r) be responsible for any task which is not specifically allocated to a particular body of the IMI2 Joint Undertaking; it may assign such tasks to any of those bodies.

Article 8

Appointment, dismissal or extension of the term of office of the Executive Director

1. The Executive Director shall be appointed by the Governing Board from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The Commission shall associate the representation from the other Members of the IMI2 Joint Undertaking in the selection procedure as appropriate.

In particular, an appropriate representation from the other Members of the IMI2 Joint Undertaking shall be ensured at the pre-selection stage of the selection procedure. For that purpose, the Members other than the Union shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

2. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of the IMI2 Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract of the Executive Director, the IMI2 Joint Undertaking shall be represented by the chairperson of the Governing Board.

3. The term of office of the Executive Director shall be three years. By the end of that period, the Commission associating the Members other than the Union as appropriate shall undertake an assessment of the performance of the Executive Director and the IMI2 Joint Undertaking's future tasks and challenges.

4. The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than four years.

5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

6. The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the Members other than the Union as appropriate.

Article 9

Tasks of the Executive Director

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the IMI2 Joint Undertaking in accordance with the decisions of the Governing Board.

2. The Executive Director shall be the legal representative of the IMI2 Joint Undertaking. The Executive Director shall be accountable to the Governing Board.

3. The Executive Director shall implement the budget of the IMI2 Joint Undertaking.

4. The Executive Director shall in particular carry out the following tasks in an independent manner:
 - (a) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;
 - (b) prepare in close cooperation with advisory groups and submit for adoption to the Governing Board the annual work plan and the corresponding expenditure estimates;
 - (c) submit for opinion to the Governing Board the annual accounts;
 - (d) prepare and submit for approval to the Governing Board the annual activity report, including the information on corresponding expenditure;
 - (e) submit for approval to the Governing Board the list of proposals selected for funding;
 - (f) inform the States Representatives Group and the Scientific Committee regularly of all matters relevant to their advisory role;
 - (g) sign individual grant agreements and decisions;
 - (h) sign procurement contracts;
 - (i) implement the IMI2 Joint Undertaking's communications policy;
 - (j) organise, direct and supervise the operations and the staff of the IMI2 Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
 - (k) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
 - (l) ensure that risk assessment and risk management are performed;
 - (m) take any other measures needed for assessing the progress of the IMI2 Joint Undertaking towards achieving its objectives;
 - (n) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.
5. The Executive Director shall set up a Programme Office for the execution, under his/her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the IMI2 Joint Undertaking and shall in particular carry out the following tasks:
 - (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules of the IMI2 Joint Undertaking;
 - (b) manage the calls for proposals as provided for in the annual work plan and administer the grant agreements and decisions, including their coordination;
 - (c) provide to the Members and to the other bodies of the IMI2 Joint Undertaking all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
 - (d) act as the secretariat of the bodies of the IMI2 Joint Undertaking and provide support to advisory groups set up by the Governing Board.

*Article 10***Scientific Committee**

1. The Scientific Committee shall consist of no more than 11 members appointed for a renewable period of two years. It shall elect a chairperson from among its members for the period of two years.

Additional experts may be appointed if necessary for specific ad-hoc tasks and limited duration. They shall be selected following the same procedure as that applicable to the permanent members of the Scientific Committee.

2. The members of the Scientific Committee shall reflect a balanced representation of worldwide recognised experts from academia, industry and regulatory bodies. Collectively, the members of the Scientific Committee shall have the necessary scientific competencies and expertise covering the technical domain needed to make strategic science-based recommendations to the IMI2 Joint Undertaking.

3. The Governing Board shall establish the specific criteria and selection process for the composition of the Scientific Committee and shall appoint its members. The Governing Board shall take into consideration the potential candidates proposed by the States Representatives Group.

4. The Scientific Committee shall carry out the following tasks:

(a) advise on the scientific priorities to be included in the Strategic Research Agenda taking into account related activities in Horizon 2020;

(b) advise on the scientific priorities to be addressed in the annual work plans;

(c) advise on the scientific achievements described in the annual activity report.

5. The Scientific Committee shall meet at least twice a year. The meetings shall be convened by its chairperson.

6. The Scientific Committee may, with the agreement of the chairperson, invite other persons to attend its meetings.

7. The Scientific Committee shall adopt its own rules of procedure.

*Article 11***States Representatives Group**

1. The States Representatives Group shall consist of one representative of each Member State and of each country associated to Horizon 2020. It shall elect a chairperson from among its members.

2. The States Representatives Group shall meet at least twice a year. The meetings shall be convened by its chairperson. The chairperson of the Governing Board and the Executive Director or their representatives shall attend the meetings.

The chairperson of the States Representatives Group may invite other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union and representatives of SME associations.

3. The States Representatives Group shall be consulted and, in particular, review information and provide opinions on the following matters:

(a) programme progress of the IMI2 Joint Undertaking and achievement of its targets, including the information on calls and proposals evaluation process;

(b) updating of strategic orientation;

(c) links to Horizon 2020;

(d) annual work plans;

(e) involvement of SMEs.

4. The States Representatives Group shall also provide information to, and act as an interface with, the IMI2 Joint Undertaking on the following matters:

(a) the status of relevant national or regional research and innovation programmes and identification of potential areas of cooperation, including deployment, to allow synergies and avoid overlaps;

(b) specific measures taken at national level or regional level with regard to dissemination events, dedicated technical workshops and communication activities.

5. The States Representatives Group may issue, on its own initiative, recommendations or proposals to the Governing Board on technical, managerial and financial matters as well as on annual plans, in particular when those matters affect national or regional interests.

The Governing Board shall inform without undue delay the States Representatives Group of the follow up it has given to such recommendations or proposals, or it shall give reasons if they are not followed up.

6. The States Representatives Group shall receive information on a regular basis, among others on the participation in indirect actions funded by the IMI2 Joint Undertaking, on the outcome of each call and project implementation, on justifications for activities referred to in Article 4(2) of this Regulation, on synergies with other relevant Union programmes, and on the execution of the IMI2 Joint Undertaking budget.

7. The States Representatives Group shall adopt its own rules of procedure.

Article 12

Stakeholder Forum

1. The Stakeholder Forum shall be open to all public and private stakeholders, international interest groups from Member States, associated countries as well as from other countries.

2. The Stakeholder Forum shall be informed of the activities of the IMI2 Joint Undertaking and shall be invited to provide comments.

3. The meetings of the Stakeholder Forum shall be convened by the Executive Director.

Article 13

Sources of financing

1. The IMI2 Joint Undertaking shall be jointly funded by the Union, the Members other than the Union and the Associated Partners, or their constituent entities or their affiliated entities through financial contributions paid in instalments and contributions consisting of the costs incurred by them in implementing indirect actions and that are not reimbursed by the IMI2 Joint Undertaking.

2. The administrative costs of the IMI2 Joint Undertaking shall not exceed EUR 85 200 000 and shall be covered through financial contributions divided equally on an annual basis between the Union and the Members other than the Union. If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the IMI2 Joint Undertaking.

3. The operational costs of the IMI2 Joint Undertaking shall be covered through the following contributions:
- (a) a financial contribution by the Union;
 - (b) in kind contributions by the Members other than the Union and the Associated Partners, or their constituent entities or their affiliated entities, consisting of the costs incurred by them in implementing indirect actions, and in relation to advisory groups, if foreseen in the annual work plan, less the contribution of the IMI2 Joint Undertaking and any other Union financial contribution to those costs;
 - (c) financial contributions by the Members other than the Union and the Associated Partners, or their constituent entities or their affiliated entities, which may be made in addition to, or instead of point (b).
4. The resources of the IMI2 Joint Undertaking entered in its budget shall be composed of the following contributions:
- (a) Members' financial contributions to the administrative costs;
 - (b) Members' and Associated Partners' financial contributions to the operational costs;
 - (c) any revenue generated by the IMI2 Joint Undertaking;
 - (d) other financial contributions, resources and revenues.

Any interest yielded by the contributions paid to the IMI2 Joint Undertaking by its Members and Associated Partners shall be considered to be its revenue.

5. All resources of the IMI2 Joint Undertaking and its activities shall be devoted to the objectives set out in Article 2 of this Regulation.
6. The IMI2 Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives.
7. Except when the IMI2 Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the Members of the IMI2 Joint Undertaking.

Article 14

Financial commitments

The financial commitments of the IMI2 Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its Members and Associated Partners.

Article 15

Financial year

The financial year shall run from 1 January to 31 December.

Article 16

Operational and financial planning

1. The Executive Director shall submit for adoption to the Governing Board a draft annual work plan, which shall include a detailed plan of the research and innovation activities, the administrative activities and the corresponding expenditure estimates for the coming year. The draft work plan shall also include the estimated value of the contributions to be made in accordance with point (b) of Article 13(3) of the Statutes.

2. The annual work plan for a particular year shall be adopted by the end of the previous year. The annual work plan shall be made publicly available.
3. The Executive Director shall prepare the draft annual budget for the following year and submit it to the Governing Board for adoption.
4. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
5. The annual budget shall be adapted in order to take into account the amount of the Union financial contribution as set out in the Union budget.

Article 17

Operational and financial reporting

1. The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the IMI2 Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the IMI2 Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
 - (b) proposals submitted, including a breakdown by participant type, including SMEs, and by country;
 - (c) the actions selected for funding, including a breakdown by participant type, including SMEs, and by country and indicating the contribution of the IMI2 Joint Undertaking to the individual participants and actions.
2. Once approved by the Governing Board, the annual activity report shall be made publicly available.
 3. By 1 March of the following financial year, the accounting officer of the IMI2 Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and the Court of Auditors.

By 31 March of the following financial year, the IMI2 Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

On receipt of the Court of Auditors' observations on the IMI2 Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the IMI2 Joint Undertaking shall draw up the IMI2 Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the IMI2 Joint Undertaking's final accounts.

The Executive Director shall, by 1 July of the following financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Governing Board's opinion.

The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.

The Executive Director shall provide the Court of Auditors with a reply to its observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Regulation (EU, Euratom) No 966/2012.

Article 18

Internal audit

The Commission's internal auditor shall exercise the same powers over the IMI2 Joint Undertaking as those exercised in respect of the Commission.

Article 19

Liability of Members and insurance

1. The financial liability of the Members for the debts of the IMI2 Joint Undertaking shall be limited to their contributions already made to the administrative costs.
2. The IMI2 Joint Undertaking shall take out and maintain appropriate insurance.

Article 20

Conflict of interest

1. The IMI2 Joint Undertaking, its bodies and staff shall avoid conflict of interest in the implementation of their activities.
2. The IMI2 Joint Undertaking Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its Members, Associated Partners, bodies and staff. Those rules shall contain provisions intended to avoid conflict of interest in respect of the representatives of the Members serving in the Governing Board.

Article 21

Winding up

1. The IMI2 Joint Undertaking shall be wound up at the end of the period laid down in Article 1 of this Regulation.
 2. In addition to paragraph 1, the winding up procedure shall be automatically triggered if the Union or all other Members withdraw from the IMI2 Joint Undertaking.
 3. For the purpose of conducting the proceedings to wind up the IMI2 Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
 4. When the IMI2 Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding up. Any surplus shall be distributed among the Members at the time of the winding up in proportion to their financial contributions to the IMI2 Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.
 5. An ad hoc procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the IMI2 Joint Undertaking as well as any procurement contract with a duration longer than the duration of the IMI2 Joint Undertaking.
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COUNCIL REGULATION (EU) No 558/2014
of 6 May 2014
establishing the Clean Sky 2 Joint Undertaking
(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

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

Whereas:

- (1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council ⁽²⁾.
- (2) Council Decision 2006/971/EC ⁽³⁾ identified specific public-private partnerships to be supported, including a public-private partnership in the specific area of the Clean Sky Joint Technology Initiative.
- (3) The Communication from the Commission of 3 March 2010 entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth (the 'Europe 2020 Strategy)', endorsed by the European Parliament and the Council, emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union.
- (4) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽⁴⁾ established Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) ('Horizon 2020'). Horizon 2020 aims to achieve a greater impact with respect to research and innovation by combining Horizon 2020 and private sector funds in public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate. In accordance with Regulation (EU) No 1291/2013, Union involvement in those partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union under Decision No 1982/2006/EC.

⁽¹⁾ Opinion of 10 December 2013 (not yet published in the Official Journal).

⁽²⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

⁽³⁾ Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) (OJ L 400, 30.12.2006, p. 86).

⁽⁴⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

- (5) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU ⁽¹⁾, further support should be provided to joint undertakings established under Decision No 1982/2006/EC under the conditions specified in Decision 2013/743/EU.
- (6) The Clean Sky Joint Undertaking set up by Council Regulation (EC) No 71/2008 ⁽²⁾ is achieving its objectives of stimulating new research within the framework of a public-private partnership which enables long-term cooperation to take place among European aeronautical stakeholders. Small and medium-sized enterprises (SMEs) have participated very extensively in Clean Sky, with approximately 40 % of the budget for calls for proposals allocated to them. The interim evaluation of the Clean Sky Joint Undertaking has shown that the Joint Undertaking is successfully stimulating developments towards environmental targets. In addition, it has been highly successful in attracting extensive and wide-ranging participation by all Union key industries and a large number of SMEs. It has led to new collaborations and to the participation of new organisations. Its research area should therefore continue to be supported in order to achieve its objectives as set out in this Regulation.
- (7) Continued support for the Clean Sky research programme should also take into account the experience acquired from the operations of the Clean Sky Joint Undertaking, including the results of its interim evaluation and the stakeholders' recommendations, and should be implemented using a structure and rules that are more fit for its purpose in order to enhance efficiency and to ensure simplification. To that effect, the Clean Sky 2 Joint Undertaking should adopt financial rules specific to its needs in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾.
- (8) The private members of the Clean Sky Joint Undertaking have agreed for the research activities in the area of the Clean Sky Joint Undertaking to be pursued within a structure better adapted to the nature of a public-private partnership. It is appropriate that the private members of the Clean Sky 2 Joint Undertaking accept the Statutes annexed to this Regulation by means of a letter of endorsement.
- (9) To achieve its objectives, the Clean Sky 2 Joint Undertaking should provide financial support to participants and members, mainly in the form of grants following open and competitive calls for proposals.
- (10) The Clean Sky 2 Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner to its appropriate bodies as well as promoting its activities, including information and dissemination activities to the wider public. The rules of procedure of the bodies of the Clean Sky 2 Joint Undertaking should be made publicly available.
- (11) The contributions from the private members should not be limited only to the administrative costs of the Clean Sky 2 Joint Undertaking and to the co-financing required to carry out research and innovation actions supported by the Clean Sky 2 Joint Undertaking, but should also cover additional activities previously declared and to be undertaken by the private members, as specified in an additional activities plan. In order to get a proper overview of the leverage effect of those additional activities, they should represent contributions to the broader Clean Sky Joint Technology Initiative.
- (12) Participation in indirect actions funded by the Clean Sky 2 Joint Undertaking should comply with Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽⁴⁾. The Clean Sky 2 Joint Undertaking should, moreover, ensure consistent application of those rules based on relevant measures adopted by the Commission.
- (13) The Clean Sky 2 Joint Undertaking should also use electronic means managed by the Commission to ensure openness and transparency and to facilitate participation. Therefore, the calls for proposals launched by the Clean Sky 2 Joint Undertaking should also be published on the single portal for participants as well as through other

⁽¹⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

⁽²⁾ Council Regulation (EC) No 71/2008 of 20 December 2007 setting up the Clean Sky Joint Undertaking (OJ L 30, 4.2.2008, p. 1).

⁽³⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽⁴⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the Clean Sky 2 Joint Undertaking for inclusion in the Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.

- (14) The Clean Sky 2 Joint Undertaking should take into account the OECD definitions regarding Technological Readiness Level in the classification of technological research, product development and demonstration activities.
- (15) The Union financial contribution should be managed in accordance with the principle of sound financial management and with the rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012 ⁽¹⁾.
- (16) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and disproportionate amounts of documentation and reporting should be avoided. Audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013.
- (17) The financial interests of the Union and of the other members of the Clean Sky 2 Joint Undertaking should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (18) The Commission's internal auditor should exercise the same powers over the Clean Sky 2 Joint Undertaking as those exercised in respect of the Commission.
- (19) In view of the specific nature and the current status of the joint undertakings, and to ensure continuity with the Seventh Framework Programme, the joint undertakings should continue to be subject to a separate discharge. By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, discharge for the implementation of the budget of the Clean Sky 2 Joint Undertaking should therefore be given by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the Union financial contribution to the Clean Sky 2 Joint Undertaking but they should be aligned, to the extent possible, to the ones foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.
- (20) To implement the Union financial support for large-scale actions phased over several years, it is advisable to provide for the possibility to split multiannual budgetary commitments by the Union and the Clean Sky 2 Joint Undertaking into annual instalments. Commitments binding on the Union and the Clean Sky 2 Joint Undertaking over the long term should make it possible to reduce the uncertainties connected with the completion of such large-scale actions.
- (21) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore the Clean Sky 2 Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the Clean Sky 2 Joint Undertaking and underpin smart specialisation efforts.
- (22) The Clean Sky Joint Undertaking was set up for a period up to 31 December 2017. The Clean Sky 2 Joint Undertaking should provide continued support to the Clean Sky research programme by implementing the remaining actions initiated under Regulation (EC) No 71/2008 in accordance with that Regulation. The transition from the Clean Sky Joint Undertaking to the Clean Sky 2 Joint Undertaking should be aligned and synchronized with the transition from the Seventh Framework Programme to Horizon 2020 to ensure optimal use of the funding available for research. In the interest of legal certainty and clarity, Regulation (EC) No 71/2008 should therefore be repealed and transitional provisions should be set out.

⁽¹⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362 31.12.2012, p. 1).

- (23) Given the overall aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals by the Clean Sky 2 Joint Undertaking should take into account the duration of Horizon 2020.
- (24) Given the importance of continuous innovation for the competitiveness of the Union's transport sector and the number of joint undertakings in this field, there should be an analysis in due time, notably in view of the interim evaluation of Horizon 2020, regarding the appropriateness of efforts in collaborative research in the field of transport.
- (25) Since the objectives of this Regulation, namely the establishment of the Clean Sky 2 Joint Undertaking in order to strengthen industrial research and innovation across the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of avoiding duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary for that purpose in order to achieve those objectives,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

1. For the implementation of the Joint Technology Initiative in aeronautics, a joint undertaking within the meaning of Article 187 of the Treaty on the Functioning of the European Union ('Clean Sky 2 Joint Undertaking'), is established for a period until 31 December 2024. In order to take into account the duration of Horizon 2020, calls for proposals by the Clean Sky 2 Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases calls for proposals may be launched by 31 December 2021.
2. The Clean Sky 2 Joint Undertaking shall replace and succeed the Clean Sky Joint Undertaking, established by Regulation (EC) No 71/2008.
3. The Clean Sky 2 Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.
4. The Clean Sky 2 Joint Undertaking shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity granted to legal persons under the laws of those States. It may acquire or dispose of movable and immovable property and may be party to legal proceedings.
5. The seat of the Clean Sky 2 Joint Undertaking shall be located in Brussels, Belgium.
6. The Statutes of the Clean Sky 2 Joint Undertaking are set out in Annex I.

Article 2

Objectives

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

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

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

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

- (i) increasing aircraft fuel efficiency, thus reducing CO₂ emissions by 20 to 30 % compared to 'state-of-the-art' aircraft entering into service as from 2014;
- (ii) reducing aircraft NO_x and noise emissions by 20 to 30 % compared to 'state-of-the-art' aircraft entering into service as from 2014.

Article 3

Union financial contribution

1. The Union financial contribution to the Clean Sky 2 Joint Undertaking, including EFTA appropriations, to cover administrative costs and operational costs, shall be up to EUR 1 755 000 000. The contribution shall be paid from the appropriations in the general budget of the Union allocated to the Horizon 2020 Specific Programme implementing Horizon 2020 in accordance with point (c)(iv) of Article 58(1) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 for bodies referred to in Article 209 of that Regulation.

2. The arrangements for the Union financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the Clean Sky 2 Joint Undertaking.

3. The delegation agreement referred to in paragraph 2 of this Article shall cover the aspects set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Delegated Regulation (EU) No 1268/2012, as well as, inter alia, the following:

- (a) the requirements for the Clean Sky 2 Joint Undertaking's contribution regarding the relevant performance indicators referred to in Annex II to Decision 2013/743/EU;
- (b) the requirements for the Clean Sky 2 Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision 2013/743/EU;
- (c) the specific performance indicators related to the functioning of the Clean Sky 2 Joint Undertaking;
- (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations including on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (e) provisions for the publication of calls for proposals by the Clean Sky 2 Joint Undertaking also on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (f) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

*Article 4***Contributions of members other than the Union**

1. Each Leader and Core Partner of the Clean Sky 2 Joint Undertaking shall make or arrange for its affiliated entities to make its respective contribution. The total contribution from all members shall be of at least EUR 2 193 750 000 over the period defined in Article 1.

2. The contribution referred to in paragraph 1 shall consist of the following:

(a) contributions to the Clean Sky 2 Joint Undertaking in accordance with Article 15(2) and point (b) of Article 15(3) of the Statutes;

(b) in-kind contributions of at least EUR 965 250 000 over the period defined in Article 1 by the Leaders and Core Partners or their affiliated entities, consisting of the costs incurred by them in implementing additional activities outside the work plan of the Clean Sky 2 Joint Undertaking contributing to the objectives of the Clean Sky Joint Technology Initiative. Other Union funding programmes may support those costs in accordance with the applicable rules and procedures. In such cases, the Union financial contribution shall not be a substitute for the in-kind contributions from the Leaders and Core Partners or their affiliated entities.

The costs referred to in point (b) of the first subparagraph shall not be eligible for financial support by the Clean Sky 2 Joint Undertaking. The corresponding activities shall be set out in an additional activities plan that shall indicate the estimated value of those contributions.

3. The Leaders and Core Partners of the Clean Sky 2 Joint Undertaking shall declare, each year by 31 January to the Governing Board of the Clean Sky 2 Joint Undertaking, the value of the contributions referred to in paragraph 2 made in each of the previous financial years. The States Representative Group shall also be informed.

4. For the purpose of valuing the contributions referred to in point (b) of the first subparagraph of paragraph 2 and in point (b) of Article 15(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the Clean Sky 2 Joint Undertaking should there be any uncertainty arising from the certification. For the purposes of this Regulation, the costs incurred in additional activities shall not be audited by the Clean Sky 2 Joint Undertaking or any Union body.

5. The Commission may terminate, proportionally reduce or suspend the Union financial contribution to the Clean Sky 2 Joint Undertaking or trigger the winding-up procedure referred to in Article 24(2) of the Statutes if members other than the Union or their affiliated entities do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraph 2 of this Article. The Commission decision shall not hinder the reimbursement of eligible costs already incurred by those members by the time of the notification of the decision to the Clean Sky 2 Joint Undertaking.

*Article 5***Financial rules**

Without prejudice to Article 12 of this Regulation, the Clean Sky 2 Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014 ⁽¹⁾.

⁽¹⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

*Article 6***Staff**

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾ ('Staff Regulations' and 'Conditions of Employment') and the rules adopted jointly by the institutions of the Union for the purpose of applying Staff Regulations and Conditions of Employment shall apply to the staff of the Clean Sky 2 Joint Undertaking.

2. The Governing Board shall exercise, with respect to the staff of the Clean Sky 2 Joint Undertaking, the powers conferred by the Staff Regulations on the appointing authority and the powers conferred by the Conditions of Employment on the authority empowered to conclude contracts ('the appointing authority powers').

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation may be suspended. The Executive Director is authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any subsequent sub-delegation thereof by the latter. In such cases, the Governing Board shall exercise the appointing authority powers itself or shall delegate them to one of its members or to a staff member of the Clean Sky 2 Joint Undertaking other than the Executive Director.

3. The Governing Board shall adopt appropriate implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations.

4. The staff resources shall be determined in the staff establishment plan of the Clean Sky 2 Joint Undertaking indicating the number of temporary posts by function group and by grade and the number of contract staff expressed in full-time equivalents, in line with its annual budget.

5. The staff of the Clean Sky 2 Joint Undertaking shall consist of temporary staff and contract staff.

6. All costs related to staff shall be borne by the Clean Sky 2 Joint Undertaking.

*Article 7***Seconded national experts and trainees**

1. The Clean Sky 2 Joint Undertaking may make use of seconded national experts and trainees not employed by the Clean Sky 2 Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to the information on staff as referred to in Article 6(4) in line with the annual budget.

2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the Clean Sky 2 Joint Undertaking and on the use of trainees.

*Article 8***Privileges and immunities**

The Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, shall apply to the Clean Sky 2 Joint Undertaking and its staff.

⁽¹⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ 56, 4.3.1968, p. 1).

*Article 9***Liability of the Clean Sky 2 Joint Undertaking**

1. The contractual liability of the Clean Sky 2 Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.
2. In the case of non-contractual liability, the Clean Sky 2 Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the Clean Sky 2 Joint Undertaking in respect of the liability referred to in paragraph 1 or 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the Clean Sky 2 Joint Undertaking and shall be covered by its resources.
4. The Clean Sky 2 Joint Undertaking shall be solely responsible for meeting its obligations.

*Article 10***Jurisdiction of the Court of Justice of the European Union and applicable law**

1. The Court of Justice of the European Union shall have jurisdiction:
 - (a) pursuant to any arbitration clause contained in agreements or contracts concluded by the Clean Sky 2 Joint Undertaking or in its decisions;
 - (b) in disputes relating to compensation for damage caused by the staff of the Clean Sky 2 Joint Undertaking in the performance of their duties;
 - (c) in any dispute between the Clean Sky 2 Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment.
2. Regarding any matter not covered by this Regulation or by other Union legal acts, the law of the State where the seat of the Clean Sky 2 Joint Undertaking is located shall apply.

*Article 11***Evaluation**

1. By 30 June 2017, the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the Clean Sky 2 Joint Undertaking. The Commission shall prepare a report on that evaluation which shall include conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The results of the interim evaluation of the Clean Sky 2 Joint Undertaking shall be taken into account in the in-depth assessment and in the interim evaluation referred to in Article 32 of Regulation (EU) No 1291/2013.
2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1 of this Article, the Commission may act in accordance with Article 4(5) or take any other appropriate action.
3. Within six months of the winding up of the Clean Sky 2 Joint Undertaking, but in any event no later than two years after the triggering of the winding-up procedure referred to in Article 24 of the Statutes, the Commission shall conduct a final evaluation of the Clean Sky 2 Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

*Article 12***Discharge**

By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, the discharge for the implementation of the budget of the Clean Sky 2 Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council in accordance with the procedure provided for in the financial rules of the Clean Sky 2 Joint Undertaking.

*Article 13***Ex-post audits**

1. Ex-post audits of expenditure on indirect actions shall be carried out by the Clean Sky 2 Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of Horizon 2020 indirect actions.
2. The Commission may decide to carry out itself the audits referred to in paragraph 1. In such cases, it shall do so in accordance with the applicable rules, in particular the provisions of Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

*Article 14***Protection of the financial interests of the members**

1. The Clean Sky 2 Joint Undertaking shall grant Commission staff and other persons authorised by the Clean Sky 2 Joint Undertaking or the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
2. The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement, decision or contract funded under this Regulation.
3. Without prejudice to paragraphs 1 and 2, agreements, decisions and contracts resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Clean Sky 2 Joint Undertaking, the Court of Auditors and OLAF to conduct audits and investigations for the purposes referred to in those paragraphs, in accordance with their respective competences.
4. The Clean Sky 2 Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.
5. The Clean Sky 2 Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by the European Anti-fraud Office (OLAF) ⁽³⁾. The Clean Sky 2 Joint Undertaking shall adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

*Article 15***Confidentiality**

Without prejudice to Article 16, the Clean Sky 2 Joint Undertaking shall ensure the protection of sensitive information the disclosure of which could damage the interests of its members or of participants in the activities of the Clean Sky 2 Joint Undertaking.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

*Article 16***Transparency**

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽¹⁾ shall apply to documents held by the Clean Sky 2 Joint Undertaking.
2. The Governing Board may adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.
3. Without prejudice to Article 10 of this Regulation, decisions taken by the Clean Sky 2 Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 TFEU.
4. The Clean Sky 2 Joint Undertaking shall adopt practical arrangements for implementing Regulation (EC) No 1367/2006 of the European Parliament and of the Council ⁽²⁾.

*Article 17***Rules for participation and dissemination**

Regulation (EU) No 1290/2013 shall apply to the actions funded by the Clean Sky 2 Joint Undertaking. In accordance with that Regulation, the Clean Sky 2 Joint Undertaking shall be considered to be a funding body and shall provide financial support to indirect actions as set out in Article 2 of the Statutes.

*Article 18***Support from the host State**

An administrative agreement may be concluded between the Clean Sky 2 Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the Clean Sky 2 Joint Undertaking.

*Article 19***Repeal and transitional provisions**

1. Regulation (EC) No 71/2008 is hereby repealed.
2. Without prejudice to paragraph 1, actions initiated under Regulation (EC) No 71/2008 and financial obligations related to those actions shall continue to be governed by that Regulation until their completion.

Actions arising from calls for proposals provided for in annual implementation plans adopted under Regulation (EC) No 71/2008 shall also be regarded as actions initiated under that Regulation.

The interim evaluation referred to in Article 11(1) of this Regulation shall include a final evaluation of the Clean Sky Joint Undertaking under Regulation (EC) No 71/2008.

3. This Regulation shall not affect the rights and obligations of staff engaged under Regulation (EC) No 71/2008.

The employment contracts of staff referred to in the first subparagraph may be renewed under this Regulation in accordance with the Staff Regulations and Conditions of Employment.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

⁽²⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p. 13).

In particular, the Executive Director appointed under Regulation (EC) No 71/2008 shall, for the remaining period of term of office, be assigned to the functions of Executive Director as provided for in this Regulation with effect from 27 June 2014. The other conditions of contract shall remain unchanged.

4. Unless otherwise agreed between members pursuant to Regulation (EC) No 71/2008, all rights and obligations including assets, debts or liabilities of the members pursuant to Regulation (EC) No 71/2008 shall be transferred to the members pursuant to this Regulation.

5. Any unused appropriations under Regulation (EC) No 71/2008 shall be transferred to the Clean Sky 2 Joint Undertaking.

Article 20

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 May 2014.

For the Council
The President
G. STOURNARAS

ANNEX I

STATUTES OF THE CLEAN SKY 2 JOINT UNDERTAKING

*Article 1***Definitions**

For the purposes of these Statutes, the following definitions shall apply:

- (a) 'Associate' means a legal entity that has been selected under Regulation (EC) No 71/2008 and has accepted these Statutes by signing a letter of endorsement; the Associate's membership shall be terminated as soon as the actions initiated under Regulation (EC) No 71/2008 in which it is involved end, and at the latest on 31 December 2017;
- (b) 'Core Partner' means a legal entity participating in an ITD or IADP or in TAs that has been selected following a call as set out in Article 4(2) and has accepted these Statutes by signing a letter of endorsement;
- (c) 'IADP' means any of the Innovative Aircraft Demonstration Platforms listed in Article 11;
- (d) 'ITD' means any of the Integrated Technology Demonstrators listed in Article 11;
- (e) 'Leader' means a co-leader of one of the ITDs, IADPs or TAs;
- (f) 'participating affiliate' means an affiliated entity as defined in Article 2(1) of Regulation (EU) No 1290/2013 performing activities of the relevant Leader, Associate or Core Partner in accordance with the terms and conditions set out in the relevant grant agreements or decisions;
- (g) 'Transverse Activities' or 'TAs' means actions with relevance for several ITDs and/or IADPs and requiring coordination and management across the ITDs and/or IADPs for the optimal delivery of the overall objectives of the Clean Sky 2 Joint Undertaking.

*Article 2***Tasks**

The Clean Sky 2 Joint Undertaking shall carry out the following tasks:

- (a) providing financial support to research and innovation indirect actions mainly in the form of grants;
- (b) bringing together a range of ITDs and IADPs supported by TAs, with the emphasis on innovative technologies and development of full-scale demonstrators;
- (c) focusing efforts within ITDs, IADPs and TAs on key deliverables that can help the Union meet its environmental and competitiveness goals, including as outlined in the Commission's White Paper from 2011 entitled 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system';
- (d) enhancing the technology verification process in order to identify and remove obstacles to future market penetration;
- (e) pooling user requirements to guide investment in research and development towards operational and marketable solutions;
- (f) ensuring the provision of procurement contracts, where appropriate, through calls for tender;

- (g) mobilising the public and private-sector funds needed;
- (h) liaising with national and international activities in the Clean Sky 2 Joint Undertaking technical domain, in particular with the SESAR Joint Undertaking established by Council Regulation (EC) No 219/2007 ⁽¹⁾;
- (i) stimulating the involvement of SMEs in its activities, in line with the objectives of the Seventh Framework Programme and of Horizon 2020;
- (j) developing close cooperation and ensuring coordination with related European (in particular under the framework programmes), national and transnational activities;
- (k) engaging in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (l) liaising with a broad range of stakeholders including research organisations and universities;
- (m) any other task needed to achieve the objectives set out in Article 2 of this Regulation.

Article 3

Members

1. The members of the Clean Sky 2 Joint Undertaking shall be:
 - (a) the Union, represented by the Commission;
 - (b) upon acceptance of these Statutes by means of a letter of endorsement, the Leaders and the Associates as listed in Annex II to this Regulation, and the Core Partners to be selected in accordance with Article 4(2).
2. The members of the Clean Sky 2 Joint Undertaking other than the Union shall be referred to as the 'private members'.

Article 4

Changes to membership

1. Provided that it contributes to the funding referred to in Article 15 of these Statutes to achieve the objectives of the Clean Sky 2 Joint Undertaking set out in Article 2 of this Regulation and accepts the Statutes of the Clean Sky 2 Joint Undertaking, any legal entity established in a Member State or in a country associated to Horizon 2020 may apply to become a Core Partner in accordance with paragraph 2 of this Article.
2. The Core Partners and their relevant affiliates shall be selected through an open, non-discriminatory and competitive call and subject to an independent evaluation. Calls shall be driven by the need for key capabilities to implement the programme. They shall be published on the Clean Sky website and communicated through the States Representatives Group and other channels in order to ensure the widest possible participation.
3. Any member may terminate membership to the Clean Sky 2 Joint Undertaking. The termination shall become effective and irrevocable six months after its notification to the other members. As of then, the former member shall be discharged from any obligations other than those approved or incurred by the Clean Sky 2 Joint Undertaking prior to terminating the membership.

⁽¹⁾ Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) (OJ L 64, 2.3.2007, p. 1).

4. Membership of the Clean Sky 2 Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.
5. Upon any change to membership pursuant to this Article, the Clean Sky 2 Joint Undertaking shall immediately publish on its website an updated list of its members together with the date of such change.
6. The membership of Associates shall be automatically terminated as soon as the actions initiated under Regulation (EC) No 71/2008 in which they are involved end and at the latest on 31 December 2017.

Article 5

Bodies of the Clean Sky 2 Joint Undertaking

1. The bodies of the Clean Sky 2 Joint Undertaking shall be:
 - (a) the Governing Board;
 - (b) the Executive Director;
 - (c) the Steering Committees;
 - (d) the Scientific Committee;
 - (e) the States Representatives Group.
2. The Scientific Committee and the States Representatives Group shall be advisory bodies to the Clean Sky 2 Joint Undertaking.

Article 6

Composition of the Governing Board

The Governing Board shall be composed of the following:

- (a) one representative of the Commission on behalf of the Union;
- (b) one representative of each Leader;
- (c) one representative of Core Partners per ITD;
- (d) one representative of Associates per ITD;
- (e) one representative of Core Partners per IADP.

Article 7

Functioning of the Governing Board

1. The Union shall hold 50 % of the voting rights. The voting rights of the Union shall be indivisible. Each other representative shall hold an equal number of votes. The representatives shall use their best endeavours to achieve consensus. Failing consensus, the Governing Board shall take decisions by a majority of at least 80 % of all votes, including the votes of those who are absent.
2. The Governing Board shall elect its chairperson for a period of two years.

3. The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission or of a majority of the representatives of the private members, or at the request of the chairperson. Meetings of the Governing Board shall be convened by its chairperson and shall usually take place at the seat of the Clean Sky 2 Joint Undertaking.

The Executive Director shall have the right to take part in the deliberations, but shall have no voting rights.

The chairperson or the vice-chair person of the States Representatives Group shall have the right to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

The chairperson of the Scientific Committee shall have the right, whenever issues falling within its tasks are discussed, to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

The Governing Board may invite other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union.

4. The representatives of the members shall not be personally liable for actions they have taken in their capacity as representatives on the Governing Board.

5. The Governing Board shall adopt its own rules of procedure.

6. The Governing Board shall adopt transitional measures as appropriate.

Article 8

Tasks of the Governing Board

1. The Governing Board shall have overall responsibility for the strategic orientation and the operations of the Clean Sky 2 Joint Undertaking and shall supervise the implementation of its activities.

The Commission, within its role in the Governing Board, shall seek to ensure coordination between the activities of the Clean Sky 2 Joint Undertaking and the relevant activities of Horizon 2020 with a view to promoting synergies when identifying priorities covered by collaborative research.

2. The Governing Board shall in particular carry out the following tasks:

- (a) assess, accept or reject applications for membership in accordance with Article 4 of these Statutes;
- (b) decide on the termination of the membership in the Clean Sky 2 Joint Undertaking of any member that does not fulfil its obligations;
- (c) adopt the financial rules of the Clean Sky 2 Joint Undertaking in accordance with Article 5 of this Regulation;
- (d) adopt the annual budget of the Clean Sky 2 Joint Undertaking, including the corresponding staff establishment plan indicating the number of temporary posts by function group and by grade and the number of contract staff and seconded national experts expressed in full-time equivalents;
- (e) exercise the appointing authority powers with respect to the staff, in accordance with Article 6(2) of this Regulation;

- (f) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
- (g) approve the organisational structure of the Programme Office upon a recommendation of the Executive Director;
- (h) adopt the work plan and the corresponding expenditure estimates, as proposed by the Executive Director after having consulted the Scientific Committee and the States Representatives Group;
- (i) approve the additional activities plan referred to in point (b) of Article 4(2) of this Regulation on the basis of a proposal from the private members and after having consulted, where appropriate, an ad hoc advisory group;
- (j) receive and provide opinion on the declaration referred to in the Article 4(3) of this Regulation;
- (k) approve the annual activity report, including the corresponding expenditure;
- (l) arrange, as appropriate, for the establishment of an internal audit capability of the Clean Sky 2 Joint Undertaking;
- (m) ensure procedures for open and transparent calls and approve the calls as well as, where appropriate, the related rules for submission, evaluation, selection, award and review procedures;
- (n) approve the list of proposals and tenders selected for funding on the basis of the ranking list produced by a panel of independent experts;
- (o) establish the Clean Sky 2 Joint Undertaking's communications policy upon recommendation by the Executive Director;
- (p) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 6(3) of this Regulation;
- (q) where appropriate, establish rules on the secondment of national experts to the Clean Sky 2 Joint Undertaking and on the use of trainees in accordance with Article 7 of this Regulation;
- (r) where appropriate, set up advisory groups in addition to the bodies of the Clean Sky 2 Joint Undertaking;
- (s) where appropriate, submit to the Commission a request to amend this Regulation proposed by a member of the Clean Sky 2 Joint Undertaking;
- (t) be responsible for any task that is not specifically allocated to a particular body of the Clean Sky 2 Joint Undertaking; it may assign such tasks to any of those bodies.

Article 9

Appointment, dismissal or extension of the term of office of the Executive Director

1. The Executive Director shall be appointed by the Governing Board from a list of candidates proposed by the Commission following an open and transparent selection procedure. The Commission shall associate the representation from private members in the selection procedure as appropriate.

In particular, an appropriate representation from private members shall be ensured at the pre-selection stage of the selection procedure. For that purpose, the private members shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

2. The Executive Director shall be a member of staff and shall be employed as a temporary agent of the Clean Sky 2 Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract with the Executive Director, the Clean Sky 2 Joint Undertaking shall be represented by the chairperson of the Governing Board.

3. The term of office of the Executive Director shall be three years. By the end of that period, the Commission associating the private members as appropriate shall undertake an assessment of the performance of the Executive Director and the Clean Sky 2 Joint Undertaking's future tasks and challenges.

4. The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than five years.

5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

6. The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission, associating the private members as appropriate.

Article 10

Tasks of the Executive Director

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the Clean Sky 2 Joint Undertaking in accordance with the decisions of the Governing Board.

2. The Executive Director shall be the legal representative of the Clean Sky 2 Joint Undertaking. The Executive Director shall be accountable to the Governing Board.

3. The Executive Director shall implement the budget of the Clean Sky 2 Joint Undertaking.

4. The Executive Director shall in particular carry out the following tasks in an independent manner:

(a) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;

(b) prepare and submit for adoption to the Governing Board the work plan and the corresponding expenditure estimates;

(c) submit for opinion to the Governing Board the annual accounts;

(d) prepare and submit for approval to the Governing Board the annual activity report, including information on the corresponding expenditure;

(e) handle second-instance settlement of disputes within ITDs or IADPs or TAs;

(f) handle first-instance settlement of disputes across ITDs or IADPs or TAs;

(g) oversee the calls for proposals based on the content and topics proposed by the relevant ITD/IADP Steering Committee and in line with the programme objectives and submit for approval to the Governing Board the list of actions selected for funding;

- (h) inform the States Representatives Group and the Scientific Committee regularly of all matters relevant to their advisory role;
- (i) sign individual agreements and decisions;
- (j) sign procurement contracts;
- (k) implement the Clean Sky 2 Joint Undertaking's communications policy;
- (l) organise, direct and supervise the operations and the staff of the Clean Sky 2 Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
- (m) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
- (n) ensure that risk assessment and risk management are performed;
- (o) take any other measures needed to assess the progress made by the Clean Sky 2 Joint Undertaking towards achieving its objectives;
- (p) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board;
- (q) ensure the coordination between the different ITDs, IADPs and TAs and take appropriate action to manage interfaces, avoid undue overlaps between projects and favour synergies across ITDs, IADPs and TAs;
- (r) propose to the Governing Board adaptations of the technical content and budget allocations between ITDs, IADPs and TAs;
- (s) ensure effective communication between the Technology Evaluator, IADPs and ITDs and ensure that deadlines are met for the transmission of necessary data to the Technology Evaluator;
- (t) chair the governing body of the Technology Evaluator and ensure that all appropriate measures are taken to enable the Technology Evaluator to perform its tasks as described in Article 12 of these Statutes;
- (u) ensure that the planned objectives and the schedules are met, coordinate and follow-up the ITD and IADP activities and propose any appropriate evolution of the objectives and related schedule;
- (v) monitor the progress made by the ITDs and IADPs towards achieving the objectives, based in particular on the assessments of the Technology Evaluator;
- (w) approve any budget transfers below 10 % of the annual budget allocations between and within ITDs and IADPs;
- (x) organise the information exchange with the States Representatives Group.

5. The Executive Director shall set up a Programme Office for the execution, under his/her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the Clean Sky 2 Joint Undertaking and shall, in particular, carry out the following tasks:

- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules of the Clean Sky 2 Joint Undertaking;

- (b) manage the calls as provided for in the work plan and administer the agreements and decisions, including their coordination;
- (c) provide the members and the other bodies of the Clean Sky 2 Joint Undertaking all information and support needed for them to perform their duties and responding to their specific requests;
- (d) act as the secretariat of the bodies of the Clean Sky 2 Joint Undertaking and provide support to advisory groups set up by the Governing Board.

Article 11

Steering Committees

1. Steering Committees shall be established for the following ITDs and IADPs:
 - (a) Large Passenger Aircraft IADP;
 - (b) Regional Aircraft IADP;
 - (c) Rotorcraft IADP;
 - (d) Airframe ITD;
 - (e) Engines ITD;
 - (f) Systems ITD.
2. The Steering Committees for the following ITDs of the Clean Sky Joint Undertaking shall continue to exist and function under their existing rules (as regards their composition, meetings, tasks and rules of procedure) as defined under Regulation (EC) No 71/2008 until actions arising under that Regulation come to an end:
 - (a) Smart Fixed-Wing Aircraft ITD;
 - (b) Green Regional Aircraft ITD;
 - (c) Green Rotorcraft ITD;
 - (d) Systems for Green Operations ITD;
 - (e) Sustainable and Green Engines ITD;
 - (f) Eco-Design ITD.
3. Each Steering Committee shall be composed of:
 - (a) a chairperson — a senior representative of the ITD or IADP Leader(s);
 - (b) a representative of each Core Partner of the ITD or IADP; representatives of the leaders of other ITDs or IADPs may also participate;
 - (c) one or more representatives of the Programme Office, as designated by the Executive Director.

4. Each Steering Committee shall meet at least every three months. Extraordinary meetings shall be convened at the request of the chairperson or of the Executive Director.

A representative of the Commission may participate as an observer.

Private members with an interest in the results of the ITD or IADP may be invited to attend.

5. Each Steering Committee shall be responsible for:

- (a) guiding and monitoring the technical functions of its ITD or IADP and taking decisions on behalf of the Clean Sky 2 Joint Undertaking on technical matters specific to the relevant ITD or IADP in line with the grant agreements or decisions;
- (b) reporting to the Executive Director on the basis of reporting indicators to be defined by the Clean Sky 2 Joint Undertaking;
- (c) providing all necessary data to the Technology Evaluator in a format that shall be agreed with the Technology Evaluator on the basis of the terms and conditions of the mandate given by the Governing Board to the Technology Evaluator for its assessment;
- (d) establishing the detailed annual implementation plans for the ITD or IADP in line with the work plan;
- (e) proposing the contents of the calls for proposals;
- (f) advising on the contents of the calls for tenders to be launched by the Joint Undertaking in conjunction and cooperation with the members concerned;
- (g) establishing the order of rotation of Core Partners' representatives in the Governing Board. The decisions on this matter shall be taken by the representatives of the Core Partners only. The representatives of the Leaders shall not have the right to vote;
- (h) handling disputes within the ITD or IADP;
- (i) proposing to the Executive Director changes of the budget allocation within its ITD or IADP.

6. Each Steering Committee shall adopt its rules of procedure, based on a model common to all Steering Committees.

Article 12

Technology Evaluator and other Transverse Activities

1. An independent Technology Evaluator, as a Transverse Activity, shall exist for the entire duration of the Clean Sky 2 Joint Undertaking.

The Technology Evaluator shall have the following tasks:

- (a) monitoring and assessing the environmental and societal impact of the technological results arising from individual ITDs and IADPs across all Clean Sky activities, specifically quantifying the expected improvements on the overall noise, greenhouse gas and air pollutants emissions from the aviation sector in future scenarios in comparison to baseline scenarios;

- (b) providing feedback to ITDs and IADPs in order to enable the optimisation of their performance against their respective goals and objectives;
 - (c) providing input, through the Executive Director, to the Governing Board on environmental and societal impacts across Clean Sky activities to enable the Governing Board to take all actions necessary to optimise benefits across all Clean Sky programmes, against the respective programmes' high-level goals and objectives;
 - (d) providing regular information, through the members, the Executive Director and other bodies of the Joint Undertaking, on the impact of the technological results of the ITDs and IADPs.
2. The governing body of the Technology Evaluator shall be chaired by the Executive Director. Its composition and rules of procedure shall be adopted by the Governing Board, based on a proposal from the Executive Director.
3. Eco-Design and Small Air Transport Transverse Activities shall each have a Coordination Committee that shall be in charge of the coordination of their activities in cooperation with ITDs and IADPs. The Coordination Committee shall be chaired by the respective Leader(s). Its composition and rules of procedure shall be adopted by the Governing Board, based on a proposal from the Executive Director.

Article 13

Scientific Committee

1. The Scientific Committee shall consist of no more than 12 members. It shall elect a chairperson from among its members.
2. The members of the Scientific Committee shall reflect a balanced representation of worldwide recognised experts from academia, industry and regulatory bodies. Collectively, the members of the Scientific Committee shall have the necessary scientific competencies and expertise covering the technical domain needed to make science-based recommendations to the Clean Sky 2 Joint Undertaking.
3. The Governing Board shall set the criteria and selection process for the composition of the Scientific Committee and appoint its members. The Governing Board shall take into consideration the potential candidates proposed by States Representatives Group.
4. The Scientific Committee shall carry out the following tasks:
- (a) advise on the scientific priorities to be addressed in the work plans;
 - (b) advise on the scientific achievements described in the annual activity report.
5. The Scientific Committee shall meet at least twice a year. The meetings shall be convened by its chairperson.
6. The Scientific Committee may, with the agreement of the chairperson, invite other persons to attend its meetings.
7. The Scientific Committee shall adopt its own rules of procedure.

Article 14

States Representatives Group

1. The States Representatives Group shall consist of one representative of each Member State and of each country associated to Horizon 2020. It shall elect a chairperson and a vice-chair person among its members.

2. The States Representatives Group shall meet at least twice a year. The meetings shall be convened by its chairperson. The Executive Director and the chairperson of the Governing Board or their representatives shall attend the meetings.

The chairperson of the States Representatives Group may invite other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union and representatives of SME associations.

3. The States Representatives Group shall be consulted and, in particular, review information and provide opinions on the following matters:

(a) progress made in the programme of the Clean Sky 2 Joint Undertaking and towards achievement of its targets;

(b) updates of strategic orientation;

(c) links to Horizon 2020;

(d) work plans;

(e) involvement of SMEs.

4. The States Representatives Group shall also provide information to, and act as an interface with, the Clean Sky 2 Joint Undertaking on the following matters:

(a) the status of relevant national or regional research and innovation programmes and identification of potential areas of cooperation, including deployment of aeronautical technologies;

(b) specific measures taken at national or regional level with regard to dissemination events, dedicated technical workshops and communication activities.

5. The States Representatives Group may issue, on its own initiative, recommendations or proposals to the Governing Board on technical, managerial and financial matters as well as on annual plans, in particular when those matters affect national or regional interests.

The Governing Board shall inform without undue delay the States Representatives Group of the follow-up it has given to such recommendations or proposals, or it shall give reasons if they are not followed up.

6. The States Representatives Group shall receive information on a regular basis, among others on the participation in actions funded by the Clean Sky 2 Joint Undertaking, on the outcome of each call and project implementation, on synergies with other relevant Union programmes, and on the execution of the Clean Sky 2 Joint Undertaking budget.

7. The States Representatives Group shall adopt its own rules of procedure.

Article 15

Sources of financing

1. The Clean Sky 2 Joint Undertaking shall be jointly funded by the Union and the private members and their affiliated entities through financial contributions paid in instalments and contributions consisting of the costs incurred by them in implementing indirect actions that are not reimbursed by the Clean Sky 2 Joint Undertaking.

2. The administrative costs of the Clean Sky 2 Joint Undertaking shall not exceed EUR 78 000 000 and shall be covered through financial contributions divided equally on an annual basis between the Union and the private members of the Clean Sky 2 Joint Undertaking. If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the Clean Sky 2 Joint Undertaking.

3. The operational costs of the Clean Sky 2 Joint Undertaking shall be covered through:

(a) a financial contribution by the Union;

(b) in-kind contributions by Leaders and Core Partners and their affiliated entities consisting of the costs incurred by them in implementing indirect actions less the contribution of the Clean Sky 2 Joint Undertaking and any other Union contribution to those costs.

4. The resources of the Clean Sky 2 Joint Undertaking entered in its budget shall be composed of the following contributions:

(a) members' financial contributions to the administrative costs;

(b) Union financial contribution to the operational costs;

(c) any revenue generated by the Clean Sky 2 Joint Undertaking;

(d) any other financial contributions, resources and revenues.

Any interest yielded by the contributions paid to the Clean Sky 2 Joint Undertaking by its members shall be considered to be its revenue.

5. All resources of the Clean Sky 2 Joint Undertaking and its activities shall be devoted to the objectives set out in Article 2 of this Regulation.

6. The Clean Sky 2 Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives.

7. Except when the Clean Sky 2 Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the members of the Clean Sky 2 Joint Undertaking.

Article 16

Allocation of the Union contribution

1. The Union contribution dedicated to operational costs shall be allocated as follows:

(a) up to 40 % of the total Union funding shall be allocated to Leaders and their participating affiliates;

(b) up to 30 % of the total Union funding shall be allocated to Core Partners and their participating affiliates;

(c) at least 30 % of the total Union funding shall be allocated by way of competitive calls for proposals and calls for tenders. Particular attention shall be paid to ensuring adequate participation of SMEs.

2. Funding under paragraph 1 shall be allocated following evaluation of proposals by independent experts.

3. An indicative breakdown of the allocation of the Union contribution to the ITDs, IADPs and TAs is provided in Annex III to this Regulation.

Article 17

Financial commitments

1. The financial commitments of the Clean Sky 2 Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its members.
2. Budgetary commitments may be divided into annual instalments. Each year the Commission and the Clean Sky 2 Joint Undertaking shall commit the annual instalments taking into account the progress of the actions receiving financial support, the estimated needs and the budget available.

The indicative timetable for the commitment of the individual annual instalments shall be communicated to the concerned recipients of Union funds.

Article 18

Financial year

The financial year shall run from 1 January to 31 December.

Article 19

Operational and financial planning

1. The Executive Director shall submit for adoption to the Governing Board a draft multiannual or annual work plan which shall include a detailed plan of the research and innovation activities, the administrative activities and the corresponding expenditure estimates. The draft work plan shall also include the estimated value of the contributions to be made in accordance with point (b) of Article 15(3) of the Statutes.
2. The work plan shall be adopted by the end of the year prior to its implementation. The work plan shall be made publicly available.
3. The Executive Director shall prepare the draft annual budget for the following year and submit it to the Governing Board for adoption.
4. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
5. The annual budget shall be adapted in order to take into account the amount of the Union financial contribution as set out in the Union budget.

Article 20

Operational and financial reporting

1. The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the Clean Sky 2 Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the Clean Sky 2 Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;

- (b) the actions submitted, including a breakdown by participant type, including SMEs, and by country;
 - (c) the actions selected for funding, including a breakdown by participant type, including SMEs, and by country and indicating the contribution of the Clean Sky 2 Joint Undertaking to the individual participants and actions.
2. Once approved by the Governing Board, the annual activity report shall be made publicly available.
 3. By 1 March of the following financial year, the accounting officer of the Clean Sky 2 Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and the Court of Auditors.

By 31 March of the following financial year, the Clean Sky 2 Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

On receipt of the Court of Auditors' observations on the Clean Sky 2 Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the Clean Sky 2 Joint Undertaking's shall draw up the Clean Sky 2 Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the Clean Sky 2 Joint Undertaking's final accounts.

The Executive Director shall, by 1 July of the following financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Governing Board's opinion.

The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.

The Executive Director shall provide the Court of Auditors with a reply to its observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Regulation (EU, Euratom) No 966/2012.

Article 21

Internal audit

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

Article 22

Liability of members and insurance

1. The financial liability of the members for the debts of the Clean Sky 2 Joint Undertaking shall be limited to their contributions already made to the administrative costs.
2. The Clean Sky 2 Joint Undertaking shall take out and maintain appropriate insurance.

Article 23

Conflict of interest

1. The Clean Sky 2 Joint Undertaking, its bodies and staff shall avoid any conflict of interest in implementing their activities.

2. The Governing Board shall adopt rules to prevent and manage conflicts of interest applicable to the members, bodies and staff of the Clean Sky 2 Joint Undertaking. Those rules shall contain provision intended to avoid a conflict of interest in respect of the representatives of the members serving in the Governing Board.

Article 24

Winding up

1. The Clean Sky 2 Joint Undertaking shall be wound up at the end of the period defined in Article 1 of this Regulation.

2. In addition to paragraph 1, the winding-up procedure shall be automatically triggered if the Union or all private members withdraw from the Clean Sky 2 Joint Undertaking.

3. For the purpose of conducting the proceedings to wind up the Clean Sky 2 Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.

4. When the Clean Sky 2 Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding up. Any surplus shall be distributed among the members at the time of the winding up in proportion to their financial contributions to the Clean Sky 2 Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.

5. An ad hoc procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the Clean Sky 2 Joint Undertaking as well as any procurement contract with a longer duration than the duration of the Clean Sky 2 Joint Undertaking.

ANNEX II

PRIVATE MEMBERS OF THE CLEAN SKY 2 JOINT UNDERTAKING

1. LEADERS:

1. AgustaWestland SpA and AgustaWestland Limited
2. Airbus SAS
3. Alenia Aermacchi SpA
4. Dassault Aviation SA
5. Deutsches Zentrum für Luft- und Raumfahrt (DLR) e.V.
6. EADS-CASA
7. Airbus Helicopters SAS
8. Evektor
9. Fraunhofer Gesellschaft zur Förderung der angewandten Forschung e.V
10. Liebherr-Aerospace Lindenberg GmbH
11. MTU Aero Engines AG
12. Piaggio Aero Industries
13. Rolls-Royce Plc.
14. SAAB AB
15. Safran SA
16. Thales Avionics SAS

2. ASSOCIATES

List of Associates of the Clean Sky Joint Undertaking under Regulation (EC) No 71/2008 that shall also be members of the Clean Sky 2 Joint Undertaking under this Regulation until completion of their actions initiated under Regulation (EC) No 71/2008 ⁽¹⁾.

1. LMS International NV
2. Micromega Dynamics
3. EPFL Ecole Polytechnique Lausanne

⁽¹⁾ This list is based on Annex II of Regulation (EC) No 71/2008, updated on the basis of the existing grant agreements signed by the Clean Sky Joint Undertaking.

4. ETH Zurich
5. Huntsman Advanced Materials
6. RUAG Schweiz AG
7. University of Applied Sciences NW Switzerland (FHNW)
8. DIEHL Aerospace
9. DLR
10. EADS Deutschland GmbH
11. HADEG Recycling GmbH
12. MTU Aero Engines
13. Aeronova Aerospace SAU
14. Aeronova Engineering Solutions
15. Aeronova Manufacturing Engineering
16. ITP
17. EADS France
18. ONERA
19. Zodiac ECE
20. Zodiac Intertechnique
21. Zodiac Aerazur
22. HAI
23. IAI
24. Aerosoft
25. Avio
26. CIRA
27. CSM
28. DEMA
29. FOX BIT

30. IMAST
31. Piaggio Aero Industries
32. Politecnico di Torino
33. Università degli Studi Di Napoli 'Federico II' Polo delle Scienze e della Tecnologia
34. Selex ES
35. SICAMB SPA
36. Università di Bologna
37. Università degli Studi di Pisa
38. ATR
39. ELSIS
40. University of Malta
41. Aeronamic
42. Airborne Technology Centre
43. KIN Machinebouw B.V.
44. Eurocarbon
45. Fokker Aerostructures B.V. ⁽¹⁾
46. Fokker Elmo
47. Green Systems for Aircraft Foundation (GSAF)
48. Igor Stichting IGOR
49. Microflown Technologies
50. NLR
51. Stichting NL Cluster for ED
52. Stichting NL Cluster for SFWA
53. Sergem Engineering

⁽¹⁾ Previously Stork Aerospace

54. GKN Aerospace Norway ⁽¹⁾
55. TU Delft
56. Universiteit Twente
57. PZL – Świdnik
58. Avioane Craiova
59. INCAS
60. Romaero
61. Straero
62. GKN Aerospace Sweden AB ⁽²⁾
63. CYTEC ⁽³⁾
64. Cranfield University
65. QinetiQ
66. University of Nottingham

⁽¹⁾ Previously Volvo Aero Norge AS

⁽²⁾ Previously Volvo Aero Corporation

⁽³⁾ Previously UMECO Structural Materials (DERBY) Limited; previously Advanced Composites Group (ACG)

ANNEX III

INDICATIVE ALLOCATION OF THE UNION CONTRIBUTION TO ITDS/IADPS/TAS

	100 %
IADPs	
Large passenger aircraft	32 %
Regional aircraft	6 %
Rotorcraft	12 %
ITDs	
Airframes	19 %
Engines	17 %
Systems	14 %
Transverse activities	
Technology Evaluator	1 % of the above IADP/ITD values
Eco-DESIGN Transverse Activity	2 % of the above IADP/ITD values
Small Air Transport Transverse Activity	4 % of the above IADP/ITD values

COUNCIL REGULATION (EU) No 559/2014
of 6 May 2014
establishing the Fuel Cells and Hydrogen 2 Joint Undertaking
(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament

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

Whereas:

- (1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council ⁽²⁾.
- (2) Council Decision 2006/971/EC ⁽³⁾ identified specific public-private partnerships to be supported, including a public-private partnership in the specific area of the Fuel Cells and Hydrogen Joint Technology Initiative.
- (3) The Communication from the Commission entitled: 'Europe 2020: A strategy for smart, sustainable and inclusive growth' ('Europe 2020 Strategy') emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union. Both, the European Parliament and the Council have endorsed the Europe 2020 Strategy.
- (4) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽⁴⁾ ('Horizon 2020') aims to achieve a greater impact on research and innovation by combining Horizon 2020 and private sector funds within public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment, and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate. In accordance with Regulation (EU) No 1291/2013, the involvement of the Union in those public-private partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union (TFEU) under Decision No 1982/2006/EC.

⁽¹⁾ Opinion of 10 December 2013 (not yet published in the Official Journal).

⁽²⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

⁽³⁾ Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 400, 30.12.2006, p. 86).

⁽⁴⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — The Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

- (5) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU ⁽¹⁾, further support should be provided to joint undertakings established under Decision (EU) No 1982/2006/EC under the conditions specified in Decision 2013/743/EU.
- (6) The Fuel Cells and Hydrogen Joint Undertaking, set up by Council Regulation (EC) No 521/2008 ⁽²⁾ has demonstrated the potential of hydrogen as an energy carrier, and of fuel cells as energy converters, to offer a pathway for clean systems that reduce emissions, enhance energy security, and stimulate the economy. The interim evaluation of the Fuel Cells and Hydrogen Joint Undertaking set out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 2011 entitled 'Partnering in Research and Innovation' has shown that the Joint Undertaking has served as a platform for creating a strong partnership, for leveraging public and private funding and for the strong involvement of industry, in particular SMEs. That evaluation also recommended an increase of the activities in relation to hydrogen production, storage and distribution, which has been taken up in the new objectives. The Joint Undertaking's research area should therefore continue to be supported with the aim of developing a portfolio of clean, efficient and affordable solutions to the point of market introduction.
- (7) For that purpose, a new Joint Undertaking for the implementation of the Joint Technology Initiative on Fuel Cells and Hydrogen (the 'Fuel Cells and Hydrogen 2 Joint Undertaking') should be established and should replace and succeed the Fuel Cells and Hydrogen Joint Undertaking.
- (8) Continued support for the Fuel Cells and Hydrogen research programme should also take into account the experience acquired from the activities of the Fuel Cells and Hydrogen Joint Undertaking, including the results of the Commission's first interim evaluation and the results of stakeholders' recommendations. That continued support should be implemented using a structure and rules that are more fit for its purpose in order to enhance efficiency and to ensure simplification. To that effect the Fuel Cells and Hydrogen 2 Joint Undertaking should adopt financial rules specific to its needs in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council ⁽³⁾.
- (9) The Members other than the Union of the Fuel Cells and Hydrogen Joint Undertaking have expressed their agreement in writing for the research activities in the area of the Fuel Cells and Hydrogen Joint Undertaking to be pursued within a structure better adapted to the nature of a public-private partnership. It is appropriate that the Members other than the Union to the Fuel Cells and Hydrogen 2 Joint Undertaking accept the Statutes set out in the Annex to this Regulation by means of a letter of endorsement.
- (10) In order to achieve its objectives, the Fuel Cells and Hydrogen 2 Joint Undertaking should provide financial support mainly in the form of grants to participants following open and competitive calls for proposals.
- (11) Contributions from Members other than the Union and their constituent entities or their affiliated entities should not be limited only to the administrative costs of the Fuel Cells and Hydrogen 2 Joint Undertaking and to the co-financing required to carry out research and innovation actions supported by the Fuel Cells and Hydrogen 2 Joint Undertaking. Their contributions should also cover additional activities to be undertaken by the Members other than the Union or their constituent entities or their affiliated entities, as specified in an additional activities plan. In order to get a proper overview of the leverage effect of those additional activities, they should represent contributions to the broader Fuel Cells and Hydrogen Joint Technology Initiative.
- (12) Any eligible institution may become a participant or a coordinator in selected projects. According to specific policy requirements or to the nature and objective of the action set out in the work plan, it can be required that the participants are constituent entities of a Member other than the Union, in accordance with Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽⁴⁾.

⁽¹⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the Specific Programme implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

⁽²⁾ Council Regulation (EC) No 521/2008 of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking (OJ L 153, 12.6.2008, p. 1).

⁽³⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p. 84).

⁽⁴⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the Horizon 2020 Rules for Participation and Dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' (OJ L 347, 20.12.2013, p. 81).

- (13) The specific characteristics of the Fuel Cells and Hydrogen sector, in particular, the fact that it is still a pre-mature sector, without a clear return on investment and that its main benefits are societal, justify that the Union contribution is higher than the contributions from the Members other than the Union. In order to encourage broader representativeness of the groupings that are members of the Fuel Cells and Hydrogen 2 Joint Undertaking and to support the participation of new constituent entities in the Joint Technology Initiative, the Union contribution should be divided in two instalments, the second of which should be made conditional upon additional commitments, in particular from new constituent entities.
- (14) In assessing the overall impact of the Fuel Cells and Hydrogen Joint Technology Initiative, the investments from all legal entities other than the Union that contribute to the objectives of the Fuel Cells and Hydrogen Joint Technology Initiative will be taken into account. Costs incurred by all legal entities on additional activities outside the work plan of the Fuel Cells and Hydrogen 2 Joint Undertaking that contribute to the objectives of the Fuel Cells and Hydrogen 2 Joint Undertaking should be declared upon signature of grant agreements. These overall investments to the Fuel Cells and Hydrogen Joint Technology Initiative are expected to amount to at least EUR 665 000 000.
- (15) Participation in indirect actions funded by the Fuel Cells and Hydrogen 2 Joint Undertaking should comply with Regulation (EU) No 1290/2013. The Fuel Cells and Hydrogen 2 Joint Undertaking should, moreover, ensure consistent application of those rules based on relevant measures adopted by the Commission.
- (16) The Fuel Cells and Hydrogen 2 Joint Undertaking should also use electronic means managed by the Commission to ensure openness and transparency and facilitate participation. Therefore, the calls for proposals launched by the Fuel Cells and Hydrogen 2 Joint Undertaking should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the Fuel Cells and Hydrogen 2 Joint Undertaking for inclusion in Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.
- (17) The Fuel Cells and Hydrogen 2 Joint Undertaking should take into account the OECD definitions regarding Technological Readiness Level in the classification of technological research, product development and demonstration activities.
- (18) The Union financial contribution should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012 ⁽¹⁾.
- (19) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and a disproportionate amount of documentation and reporting should be avoided. Audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013.
- (20) The financial interests of the Union and of the other Members of the Fuel Cells and Hydrogen 2 Joint Undertaking should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (21) The Commission's internal auditor should exercise the same powers over the Fuel Cells and Hydrogen 2 Joint Undertaking as those exercised in respect of the Commission.

⁽¹⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (22) In view of the specific nature and the current status of the joint undertakings, and in order to ensure continuity with the Seventh Framework Programme, the joint undertakings should continue to be subject to a separate discharge. By way of derogation from Articles 60(7) and 209 of Regulation (EU, Euratom) No 966/2012, discharge for the implementation of the budget of the Fuel Cells and Hydrogen 2 Joint Undertaking should therefore be given by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the Union financial contribution to the Fuel Cells and Hydrogen 2 Joint Undertaking but should be aligned to the extent possible to those foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.
- (23) The Fuel Cells and Hydrogen 2 Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner to its appropriate bodies as well as promoting its activities, including information and dissemination activities to the wider public. The rules of procedure of the bodies of the Fuel Cells and Hydrogen 2 Joint Undertaking should be made publicly available.
- (24) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore the Fuel Cells and Hydrogen 2 Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the Fuel Cells and Hydrogen 2 Joint Undertaking and underpin smart specialisation efforts.
- (25) The Fuel Cells and Hydrogen Joint Undertaking was set up for the period up to 31 December 2017. The Fuel Cells and Hydrogen 2 Joint Undertaking should provide continued support to the Fuel Cells and Hydrogen research programme by implementing the remaining actions initiated under Regulation (EC) No 521/2008 and in accordance with that Regulation. The transition from the Fuel Cells and Hydrogen Joint Undertaking to the Fuel Cells and Hydrogen 2 Joint Undertaking should be aligned and synchronized with the transition from the Seventh Framework Programme to Horizon 2020 to ensure optimal use of the funding available for research. In the interest of legal certainty and clarity, Regulation (EC) No 521/2008 should therefore be repealed and transitional provisions should be set out.
- (26) Given the aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals under the Fuel Cells and Hydrogen 2 Joint Undertaking should take into account the duration of Horizon 2020.
- (27) Since the objective of this Regulation, namely to establish the Fuel Cells and Hydrogen 2 Joint Undertaking in order to strengthen industrial research and innovation across the Union cannot be sufficiently achieved by the Member States but can rather, by reason of avoiding duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at Union level, the Union may adopt measures, in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

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

2. The FCH 2 Joint Undertaking shall replace and succeed the FCH Joint Undertaking as established by Regulation (EC) No 521/2008.

3. The FCH 2 Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.
4. The FCH 2 Joint Undertaking shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those Member States. It may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings.
5. The seat of the FCH 2 Joint Undertaking shall be located in Brussels, Belgium.
6. The Statutes of the FCH 2 Joint Undertaking are set out in the Annex.

Article 2

Objectives

1. The FCH 2 Joint Undertaking shall have the following objectives:
 - (a) to contribute to the implementation of Regulation (EU) No 1291/2013, and in particular the Secure, Clean and Efficient Energy Challenge and the Smart, Green and Integrated Transport Challenge under part III of Annex I of Decision 2013/743/EU;
 - (b) to contribute to the objectives of the Joint Technology Initiative on Fuel Cells and Hydrogen, through the development of a strong, sustainable and globally competitive fuel cells and hydrogen sector in the Union.
2. It shall, in particular aim to:
 - (a) reduce the production cost of fuel cell systems to be used in transport applications, while increasing their lifetime to levels which can compete with conventional technologies,
 - (b) increase the electrical efficiency and the durability of the different fuel cells used for power production to levels which can compete with conventional technologies, while reducing costs,
 - (c) increase the energy efficiency of production of hydrogen mainly from water electrolysis and renewable sources while reducing operating and capital costs, so that the combined system of the hydrogen production and the conversion using the fuel cell system can compete with the alternatives for electricity production available on the market;
 - (d) demonstrate on a large scale the feasibility of using hydrogen to support integration of renewable energy sources into the energy systems, including through its use as a competitive energy storage medium for electricity produced from renewable energy sources;
 - (e) reduce the use of the EU defined 'Critical raw materials', for instance through low-platinum or platinum-free resources and through recycling or reducing or avoiding the use of rare earth elements.

Article 3

Union financial contribution

1. The Union financial contribution to the FCH 2 Joint Undertaking, including EFTA appropriations, to cover administrative costs and operational costs shall be up to EUR 665 000 000, and shall consist of:
 - (a) up to EUR 570 000 000 corresponding to the contribution committed by the Members of the FCH 2 Joint Undertaking other than the Union or their constituent entities or their affiliated entities in accordance with Article 4(1),

- (b) up to EUR 95 000 000 to match any additional contribution committed by the Members of the FCH 2 Joint Undertaking other than the Union or their constituent entities or their affiliated entities above the minimum amount specified in Article 4(1).

The Union financial contribution shall be paid from the appropriations in the general budget of the Union allocated to the Horizon 2020 Specific Programme implementing Horizon 2020 in accordance with point (c)(iv) of Article 58(1) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 for bodies referred to in Article 209 of that Regulation.

2. The arrangements for the Union financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the FCH 2 Joint Undertaking.

3. The delegation agreement referred to in paragraph 2 of this Article shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Delegated Regulation (EU) No 1268/2012 as well as, inter alia, the following:

- (a) the requirements for the FCH 2 Joint Undertaking's contribution regarding the relevant performance indicators referred to in Annex II to Decision 2013/743/EU;
- (b) the requirements for the FCH 2 Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision 2013/743/EU;
- (c) the specific performance indicators related to the functioning of the FCH 2 Joint Undertaking;
- (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations; including on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (e) provisions for the publication of calls for proposals of the FCH 2 Joint Undertaking also on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (f) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

Article 4

Contributions of Members other than the Union

1. The Members of the FCH 2 Joint Undertaking other than the Union shall make or arrange for their constituent entities or their affiliated entities to make a total contribution of at least EUR 380 000 000 over the period defined in Article 1.

2. The contribution referred to in paragraph 1 of this Article shall consist of the following:

- (a) contributions to the FCH 2 Joint Undertaking set out in Article 13(2) and point (b) of Article 13(3) of the Statutes.
- (b) in-kind contributions of at least EUR 285 000 000 over the period defined in Article 1 by the Members other than the Union or their constituent entities or their affiliated entities, consisting of the costs incurred by them in implementing additional activities outside the work plan of the FCH 2 Joint Undertaking contributing to the objectives of the FCH Joint Technology Initiative. Other Union funding programmes may support those costs in accordance with the applicable rules and procedures. In such cases, Union financing shall not be a substitute for the in kind contributions from the Members other than the Union or their constituent entities or their affiliated entities.

The costs referred to in point (b) of the first subparagraph shall not be eligible for financial support by the FCH 2 Joint Undertaking. The corresponding activities shall be set out in an annual additional activities plan that shall indicate the estimated value of those contributions.

3. The Members of the FCH 2 Joint Undertaking other than the Union shall report each year by 31 January to the Governing Board of the FCH 2 Joint Undertaking on the value of the contributions referred to in paragraph 2 made in each of the previous financial years.

4. For the purpose of valuing the contributions referred to in point (b) of paragraph 2 of this Article and Article 13(3)(b) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the FCH 2 Joint Undertaking should there be any uncertainty arising from the certification. For the purposes of this Regulation, the costs incurred in additional activities shall not be audited by the FCH 2 Joint Undertaking or any Union body.

5. The Commission may terminate, proportionally reduce or suspend the Union financial contribution to the FCH 2 Joint Undertaking or trigger the winding up procedure referred to in Article 21(2) of the Statutes if the Members of the FCH 2 Joint Undertaking other than the Union or their constituent entities or their affiliated entities do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraph 2 of this Article. The Commission decision shall not hinder the reimbursement of eligible costs already incurred by the Members of the FCH 2 Joint Undertaking other than the Union by the time the decision to terminate, proportionally reduce or suspend the Union financial contribution is notified to the FCH 2 Joint Undertaking.

Article 5

Financial rules

Without prejudice to Article 12 of this Regulation, the FCH 2 Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014 ⁽¹⁾.

Article 6

Staff

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽²⁾ ('Staff Regulations' and 'Conditions of Employment') and the rules adopted jointly by the institutions of the Union for the purpose of applying those Staff Regulations and Conditions of Employment shall apply to the staff of the FCH 2 Joint Undertaking.

2. The Governing Board shall exercise, with respect to the staff of the FCH 2 Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and the powers conferred by the Conditions of Employment on the authority empowered to conclude contracts (hereinafter 'the appointing authority powers').

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation may be suspended. The Executive Director shall be authorised to sub-delegate those powers.

⁽¹⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ 56, 4.3.1968, p. 1).

Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any subsequent sub-delegation of those powers by the latter. In such cases, the Governing Board shall exercise the powers of the appointing authority itself or delegate them to one of its members or to a staff member of the FCH 2 Joint Undertaking other than the Executive Director.

3. The Governing Board shall adopt appropriate implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations.
4. The staff resources shall be determined in the staff establishment plan of the FCH 2 Joint Undertaking indicating the number of temporary posts by function group and by grade and the number of contract staff expressed in full-time equivalents, in line with its annual budget.
5. The staff of the FCH 2 Joint Undertaking shall consist of temporary staff and contract staff.
6. All costs related to the staff shall be borne by the FCH 2 Joint Undertaking.

Article 7

Seconded national experts and trainees

1. The FCH 2 Joint Undertaking may make use of seconded national experts and trainees not employed by the FCH 2 Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to the information on staff as referred to in Article 6(4) in line with the annual budget.
2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the FCH 2 Joint Undertaking and on the use of trainees.

Article 8

Privileges and Immunities

The Protocol (No 7) on the privileges and immunities of the European Union, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, shall apply to the FCH 2 Joint Undertaking and its staff.

Article 9

Liability of the FCH 2 Joint Undertaking

1. The contractual liability of the FCH 2 Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.
2. In the case of non-contractual liability, the FCH 2 Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the FCH 2 Joint Undertaking in respect of the liability referred to in paragraphs 1 or 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the FCH 2 Joint Undertaking and shall be covered by the resources of the FCH 2 Joint Undertaking.
4. The FCH 2 Joint Undertaking shall be solely responsible for meeting its obligations.

Article 10

Jurisdiction of the Court of Justice and applicable law

1. The Court of Justice shall have jurisdiction:
 - (a) pursuant to any arbitration clause contained in agreements or contracts concluded by the FCH 2 Joint Undertaking or in its decisions;

- (b) in disputes relating to compensation for damage caused by the staff of the FCH 2 Joint Undertaking in the performance of their duties;
- (c) in any dispute between the FCH 2 Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment.
2. Regarding any matter not covered by this Regulation or by other Union legal acts, the law of the State where the seat of the FCH 2 Joint Undertaking is located shall apply.

Article 11

Evaluation

1. By 30 June 2017 the Commission shall, with the assistance of independent experts, carry out an interim evaluation of the FCH 2 Joint Undertaking, which shall, in particular, assess the level of participation in, and contribution to, the indirect actions both by the constituent entities of the Members other than the Union or their affiliated entities, and also by other legal entities. The Commission shall prepare a report on that evaluation which includes conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The results of the interim evaluation of the FCH 2 Joint Undertaking shall be taken into account in the in-depth assessment and in the interim evaluation referred to in Article 32 of Regulation (EU) No 1291/2013.
2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1 of this Article, the Commission may act in accordance with Article 4(5), or take any other appropriate action.
3. Within six months after the winding up of the FCH 2 Joint Undertaking, but no later than two years after the triggering of the winding up procedure referred to in Article 21 of the Statutes, the Commission shall conduct a final evaluation of the FCH 2 Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

Article 12

Discharge

By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, the discharge for the implementation of the budget of the FCH 2 Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council in accordance with the procedure provided for in the financial rules of the FCH 2 Joint Undertaking.

Article 13

Ex-post audits

1. Ex-post audits of expenditure on indirect actions shall be carried out by the FCH 2 Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of the Horizon 2020 indirect actions.
2. The Commission may decide to carry out itself the audits referred to in paragraph 1 of this Article. In such cases it shall do so in accordance with the applicable rules, in particular the provisions of Regulation (EU, Euratom) No 966/2012, Regulation (EU) No 1290/2013 and Regulation (EU) No 1291/2013.

Article 14

Protection of the financial interests of the Members

1. The FCH 2 Joint Undertaking shall grant Commission staff and other persons authorised by the Commission or the FCH 2 Joint Undertaking, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.

2. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement, a decision or a contract funded under this Regulation.

3. Without prejudice to paragraphs 1 and 2, contracts, agreements and decisions, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the FCH 2 Joint Undertaking, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

4. The FCH 2 Joint Undertaking shall ensure that the financial interests of its Members are adequately protected by carrying out or commissioning appropriate internal and external controls.

5. The FCH 2 Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by the European Anti-Fraud Office (OLAF) ⁽³⁾. The FCH 2 Joint Undertaking shall adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

Article 15

Confidentiality

Without prejudice to Article 16, the FCH 2 Joint Undertaking shall ensure the protection of sensitive information the disclosure of which could damage the interests of its Members or of participants in the activities of the FCH 2 Joint Undertaking.

Article 16

Transparency

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽⁴⁾, shall apply to documents held by the FCH 2 Joint Undertaking.

2. The FCH 2 Joint Undertaking Governing Board may adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.

3. Without prejudice to Article 10 of this Regulation, decisions taken by the FCH 2 Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 of the TFEU.

Article 17

Rules for participation and dissemination

Regulation (EU) No 1290/2013 shall apply to the actions funded by the FCH 2 Joint Undertaking. In accordance with that Regulation, the FCH 2 Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in Article 1 of the Statutes.

Pursuant to Article 9(5) of the Regulation (EU) No 1290/2013, work plans may provide for justified additional conditions according to specific policy requirements or to the nature and objective of the action.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

⁽⁴⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

*Article 18***Support from the host State**

An administrative agreement may be concluded between the FCH 2 Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the FCH 2 Joint Undertaking.

*Article 19***Repeal and transitional provisions**

1. Regulation (EC) No 521/2008 is hereby repealed.
2. Without prejudice to paragraph 1, actions initiated under Regulation (EC) No 521/2008 and financial obligations related to those actions shall continue to be governed by that Regulation until their completion.

The interim evaluation referred to in Article 11(1) of this Regulation shall include a final evaluation of the FCH Joint Undertaking under Regulation (EC) No 521/2008.

3. This Regulation shall not affect the rights and obligations of staff engaged under Regulation (EC) No 521/2008.

The employment contracts of staff referred to in the first subparagraph may be renewed under this Regulation in accordance with the Staff Regulations and the Conditions of Employment.

In particular, the Executive Director appointed under Regulation (EC) No 521/2008 shall, for his remaining term of office, be assigned to the functions of the Executive Director as provided for in this Regulation with effect from 27 June 2014. The other conditions of the contract shall remain unchanged.

4. Unless otherwise agreed between Members pursuant to Regulation (EC) No 521/2008, all rights and obligations including assets, debts or liabilities of the Members pursuant to Regulation (EC) No 521/2008 shall be transferred to the Members pursuant to this Regulation.
5. Any unused appropriations under Regulation (EC) No 521/2008 shall be transferred to the FCH 2 Joint Undertaking.

*Article 20***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 May 2014.

For the Council
The President
G. STOURNARAS

ANNEX

STATUTES OF THE FUEL CELLS AND HYDROGEN 2 JOINT UNDERTAKING

Article 1

Tasks

The FCH 2 Joint Undertaking shall carry out the following tasks:

- (a) provide financial support to research and innovation indirect actions mainly in the form of grants;
- (b) reach the critical mass of research efforts to build confidence in industry, public and private investors, decision makers and other stakeholders to embark on a long-term programme;
- (c) integrate research and technology developments and focus on achieving long-term sustainability and industrial competitiveness targets for cost, performance and durability and overcome critical technology bottlenecks;
- (d) stimulate innovation and the emergence of new value chains;
- (e) facilitate interaction between industry, universities and research centres;
- (f) promote the involvement of SMEs in its activities, in line with the objectives of Horizon 2020;
- (g) perform broadly-conceived socio-techno-economic research to assess and monitor technological progress and nontechnical barriers to market entry;
- (h) encourage the development of new regulations and standards and review existing ones to eliminate artificial barriers to market entry and to support inter-changeability, inter-operability, cross-border trading, and export markets;
- (i) ensure the efficient management of the FCH 2 Joint Undertaking;
- (j) commit Union funding and mobilise the private sector and other public sector resources needed to implement fuel cells and hydrogen research and innovation activities;
- (k) foster and facilitate the involvement of industry in additional activities implemented outside indirect actions;
- (l) engage in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (m) liaise with a broad range of stakeholders including research organisations and universities;
- (n) any other task needed to achieve the objectives set out in Article 2 of this Regulation.

Article 2

Members

The Members of the FCH 2 Joint Undertaking shall be:

- (a) the Union, represented by the Commission,

- (b) upon acceptance of these Statutes by means of a letter of endorsement, the New Energy World Industry Grouping AISBL, a non-profit organisation established under Belgian Law (registration number: 890 025 478) with its permanent office in Brussels, Belgium (the 'Industry Grouping'), and
- (c) upon acceptance of these Statutes by means of a letter of endorsement, the New European Research Grouping on Fuel Cells and Hydrogen AISBL, a non-profit organisation established under Belgian Law (registration number: 0897.679.372) with its permanent office in Brussels, Belgium (the 'Research Grouping').

Constituent entities are the entities that constitute each Member of the FCH 2 Joint Undertaking other than the Union, according to that Member's Statutes.

Article 3

Changes to membership

1. Any Member may terminate its membership of the FCH 2 Joint Undertaking. The termination shall become effective and irrevocable six months after notification to the other Members. As of then, the former Member shall be discharged from any obligations other than those approved or incurred by the FCH 2 Joint Undertaking prior to terminating the membership.
2. Membership of the FCH 2 Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.
3. The FCH 2 Joint Undertaking shall, upon any change to membership pursuant to this Article, immediately publish an updated list of Members of the FCH 2 Joint Undertaking on its website together with the date when such change takes effect.

Article 4

Bodies of the FCH 2 Joint Undertaking

1. The bodies of the FCH 2 Joint Undertaking shall be:
 - (a) the Governing Board;
 - (b) the Executive Director;
 - (c) the Scientific Committee;
 - (d) the States Representatives Group;
 - (e) the Stakeholder Forum.
2. The Scientific Committee, the States Representatives Group and the Stakeholder Forum shall be advisory bodies of the FCH 2 Joint Undertaking.

Article 5

Composition of the Governing Board

The Governing Board shall be composed of:

- (a) three representatives of the Commission on behalf of the Union;

- (b) six representatives of the Industry Grouping, at least one of which shall represent SMEs;
- (c) one representative of the Research Grouping.

Article 6

Functioning of the Governing Board

1. The Union shall hold 50 % of the voting rights. The voting rights of the Union shall be indivisible. The Industry Grouping shall hold 43 % of the voting rights and the Research Grouping 7 % of the voting rights. The Members shall use their best efforts to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75 % of all votes, including the votes of those who are absent.
2. The Governing Board shall elect its chairperson for a period of two years.
3. The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission or of a majority of the representatives of the Industry Grouping and the Research Grouping or at the request of the chairperson. The meetings of the Governing Board shall be convened by its chairperson and shall usually take place at the seat of the FCH 2 Joint Undertaking.

The Executive Director shall have the right to take part in the deliberations, but shall have no voting rights.

The chairperson of the States Representatives Group shall have the right to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

The chairperson of the Scientific Committee shall have the right, whenever issues falling within its tasks are discussed, to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

The Governing Board may invite, on a case by case basis, other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union.

4. The representatives of the Members shall not be personally liable for actions they have taken in their capacity as representatives on the Governing Board.
5. The Governing Board shall adopt its own rules of procedure.

Article 7

Tasks of the Governing Board

1. The Governing Board shall have overall responsibility for the strategic orientation and the operations of the FCH 2 Joint Undertaking and shall supervise the implementation of its activities.
2. The Commission, within its role in the Governing Board, shall seek to ensure coordination between the activities of the FCH 2 Joint Undertaking and the relevant activities of Horizon 2020 with a view to promoting synergies when identifying priorities covered by collaborative research.
3. The Governing Board shall in particular carry out the following tasks:
 - (a) decide on the termination of the membership in the FCH 2 Joint Undertaking of any Member that does not fulfil its obligations;

- (b) adopt the financial rules of the FCH 2 Joint Undertaking in accordance with Article 5 of this Regulation;
- (c) adopt the annual budget of the FCH 2 Joint Undertaking, including the staff establishment plan indicating the number of temporary posts by function group and by grade as well as the number of contract staff and seconded national experts expressed in full-time equivalents;
- (d) exercise the appointing authority powers with respect of the staff, in accordance with Article 6(2) of this Regulation;
- (e) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
- (f) approve the organisational structure of the Programme Office upon recommendation by the Executive Director;
- (g) adopt the annual work plan and the corresponding expenditure estimates, as proposed by the Executive Director, after having consulted the Scientific Committee and the States Representatives Group;
- (h) approve the annual additional activities plan referred to in Article 4(2)(b) of this Regulation on the basis of a proposal from the Members other than the Union and after having consulted, where appropriate, an ad hoc advisory group;
- (i) approve the annual activity report, including the corresponding expenditure;
- (j) arrange, as appropriate, for the establishment of an internal audit capability of the FCH 2 Joint Undertaking;
- (k) approve the calls as well as, where appropriate, the related rules for submission, evaluation, selection, award and review procedures;
- (l) approve the list of actions selected for funding on the basis of the ranking list produced by a panel of independent experts;
- (m) establish the FCH 2 Joint Undertaking's communications policy upon recommendation by the Executive Director;
- (n) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 6(3) of this Regulation;
- (o) where appropriate, establish rules on the secondment of national experts to the FCH 2 Joint Undertaking and on the use of trainees in accordance with Article 7 of this Regulation;
- (p) where appropriate, set up advisory groups in addition to the bodies of the FCH 2 Joint Undertaking;
- (q) where appropriate, submit to the Commission a request to amend this Regulation proposed by a Member of the FCH 2 Joint Undertaking;
- (r) be responsible for any task that is not specifically allocated to a particular body of the FCH 2 Joint Undertaking; it may assign such a task to any of those bodies.

*Article 8***Appointment, dismissal or extension of the term of office of the Executive Director**

1. The Executive Director shall be appointed by the Governing Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The Commission shall associate the representation from the Members of the FCH 2 Joint Undertaking other than the Union in the selection procedure as appropriate.

In particular, an appropriate representation from the Members of the FCH 2 Joint Undertaking other than the Union shall be ensured at the pre-selection stage of the selection procedure. For that purpose, the Members of the FCH 2 Joint Undertaking other than the Union shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

2. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of the FCH 2 Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract of the Executive Director, the FCH 2 Joint Undertaking shall be represented by the chairperson of the Governing Board.

3. The term of office of the Executive Director shall be three years. By the end of that period, the Commission associating the Members of the FCH 2 Joint Undertaking other than the Union as appropriate shall undertake an assessment of the performance of the Executive Director and the FCH 2 Joint Undertaking's future tasks and challenges.

4. The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than four years.

5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

6. The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the Members of the FCH 2 Joint Undertaking other than the Union as appropriate.

*Article 9***Tasks of the Executive Director**

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the FCH 2 Joint Undertaking in accordance with the decisions of the Governing Board.

2. The Executive Director shall be the legal representative of the FCH 2 Joint Undertaking. The Executive Director shall be accountable to the Governing Board.

3. The Executive Director shall implement the budget of the FCH 2 Joint Undertaking.

4. The Executive Director shall, in particular, carry out the following tasks in an independent manner:

(a) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;

(b) prepare and submit for adoption to the Governing Board the annual work plan and the corresponding expenditure estimates;

- (c) submit for opinion to the Governing Board the annual accounts;
- (d) prepare and submit for approval to the Governing Board the annual activity report, including the information on corresponding expenditure;
- (e) submit to the Governing Board the report on in-kind contributions in indirect actions as provided for in point (b) of Article 13(3) of the Statutes;
- (f) submit for approval to the Governing Board the list of proposals to be selected for funding;
- (g) inform the States Representatives Group and the Scientific Committee regularly of all matters relevant to their advisory role;
- (h) sign individual grant agreements and decisions;
- (i) sign procurement contracts;
- (j) implement the FCH 2 Joint Undertaking's communications policy;
- (k) organise, direct and supervise the operations and the staff of the FCH 2 Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
- (l) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
- (m) ensure that risk assessment and risk management are performed;
- (n) take any other measures needed for assessing the progress of the FCH 2 Joint Undertaking towards achieving its objectives;
- (o) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.

5. The Executive Director shall set up a Programme Office for the execution, under his/her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the FCH 2 Joint Undertaking and shall, in particular, carry out the following tasks:

- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules of the FCH 2 Joint Undertaking;
- (b) manage the calls as provided for in the annual work plan, and the administration of the agreements and decisions, including their coordination;
- (c) provide to the Members and the other bodies of the FCH 2 Joint Undertaking all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
- (d) act as the secretariat of the bodies of the FCH 2 Joint Undertaking and provide support to advisory groups set up by the Governing Board.

*Article 10***Scientific Committee**

1. The Scientific Committee shall consist of no more than nine members. It shall elect a chairperson from among its members.
2. The members of the Scientific Committee shall reflect a balanced representation of worldwide recognised experts from academia, industry and regulatory bodies. Collectively, the members of the Scientific Committee shall have the necessary scientific competencies and expertise covering the technical domain needed to make science-based recommendations to the FCH 2 Joint Undertaking.
3. The Governing Board shall establish the specific criteria and selection process for the composition of the Scientific Committee and shall appoint its members. The Governing Board shall take into consideration the potential candidates proposed by the States Representatives Group.
4. The Scientific Committee shall carry out the following tasks:
 - (a) advise on the scientific priorities to be addressed in the annual work plans;
 - (b) advise on the scientific achievements described in the annual activity report.
5. The Scientific Committee shall meet at least twice a year. The meetings shall be convened by its chairperson.
6. The Scientific Committee may, with the agreement of the chairperson, invite other persons to attend its meetings.
7. The Scientific Committee shall adopt its own rules of procedure.

*Article 11***States Representatives Group**

1. The States Representatives Group shall consist of one representative of each Member State and of each country associated to Horizon 2020. It shall elect a chairperson from among its members.
2. The States Representatives Group shall meet at least twice a year. The meetings shall be convened by its chairperson. The Executive Director and the chairperson of the Governing Board or their representatives shall attend the meetings.

The chairperson of the States Representatives Group may invite other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union.

3. The States Representatives Group shall be consulted and, in particular review information and provide opinions on the following matters:
 - (a) the programme progress in the FCH 2 Joint Undertaking and the achievement of its targets;
 - (b) the updating of strategic orientation;
 - (c) the links to Horizon 2020;
 - (d) the annual work plans;
 - (e) the involvement of SMEs.

4. The States Representatives Group shall also provide information to and act as an interface with the FCH 2 Joint Undertaking on the following matters:

- (a) the status of relevant national or regional research and innovation programmes and identification of potential areas of cooperation, including deployment of FCH technologies to allow synergies and avoid overlaps;
- (b) specific measures taken at national or regional level with regard to dissemination events, dedicated technical workshops and communication activities.

5. The States Representatives Group may, on its own initiative, issue recommendations or proposals to the Governing Board on technical, managerial and financial matters as well as on annual plans, in particular when those matters affect national or regional interests.

The Governing Board shall inform the States Representatives Group without undue delay of the follow up it has given to such recommendations or proposals, or it shall give reasons if they are not followed up.

6. The States Representatives Group shall receive information on a regular basis, among others on the participation in indirect actions funded by the FCH 2 Joint Undertaking, on the outcome of each call for proposals and project implementation, on synergies with other relevant Union programmes, and on the execution of the FCH 2 Joint Undertaking's budget.

7. The FCH 2 States Representatives Group shall adopt its own rules of procedure.

Article 12

Stakeholder Forum

1. The Stakeholder Forum shall be open to all public and private stakeholders, international interest groups from Member States, associated countries as well as from other countries.
2. The Stakeholder Forum shall be informed of the activities of the FCH 2 Joint Undertaking and shall be invited to provide comments.
3. The meetings of the Stakeholder Forum shall be convened by the Executive Director.

Article 13

Sources of financing

1. The FCH 2 Joint Undertaking shall be jointly funded by the Union and the Members other than the Union or their constituent entities or their affiliated entities through financial contributions paid in instalments and contributions consisting of the costs incurred by them in implementing indirect actions that are not reimbursed by the FCH 2 Joint Undertaking.
2. The administrative costs of the FCH 2 Joint Undertaking shall not exceed EUR 38 000 000 and shall be covered through financial contributions divided on an annual basis between the Union and the Members other than the Union. The Union shall contribute 50 %, the Industry Grouping 43 % and the Research Grouping 7 %. If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the FCH 2 Joint Undertaking.
3. The operational costs of the FCH 2 Joint Undertaking shall be covered through:
 - (a) a financial contribution by the Union

(b) in-kind contributions by the constituent entities of the Members other than the Union or their affiliated entities participating in the indirect actions, consisting of the costs incurred by them in implementing indirect actions less the contribution of the FCH 2 Joint Undertaking and any other Union contribution to those costs.

4. The resources of the FCH 2 Joint Undertaking entered in its budget shall be composed of the following contributions:

(a) Members' financial contributions to the administrative costs;

(b) Union financial contribution to the operational costs;

(c) any revenue generated by the FCH 2 Joint Undertaking;

(d) any other financial contributions, resources and revenues.

Any interest yielded by the contributions paid to the FCH 2 Joint Undertaking by its Members shall be considered to be its revenue.

5. All resources of the FCH 2 Joint Undertaking and its activities shall be devoted to the objectives set out in Article 2 of this Regulation.

6. The FCH 2 Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives.

7. Except when the FCH 2 Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the Members of the FCH 2 Joint Undertaking.

Article 14

Financial commitments

The financial commitments of the FCH 2 Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its Members.

Article 15

Financial year

The financial year shall run from 1 January to 31 December.

Article 16

Operational and financial planning

1. The Executive Director shall submit for adoption to the Governing Board a draft annual work plan, which shall include a detailed plan of the research and innovation activities, the administrative activities and the corresponding expenditure estimates for the coming year. The draft work plan shall also include the estimated value of the contributions to be made in accordance with point (b) of Article 13(3) of the Statutes.

2. The annual work plan for a particular year shall be adopted by the end of the previous year. The annual work plan shall be made publicly available.

3. The Executive Director shall prepare the draft annual budget for the following year and submit it to the Governing Board for adoption.

4. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.

5. The annual budget shall be adapted in order to take into account the amount of the Union financial contribution as set out in the Union budget.

Article 17

Operational and financial reporting

1. The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the FCH 2 Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the FCH 2 Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
- (b) the actions submitted, including a breakdown by participant type, including SMEs, and by country;
- (c) the actions selected for funding, including a breakdown by participant type, including SMEs, and by country and indicating the contribution of the FCH 2 Joint Undertaking to the individual participants and actions.

2. Once approved by the Governing Board, the annual activity report shall be made publicly available.

3. By 1 March of the following financial year, the accounting officer of the FCH 2 Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and the Court of Auditors.

By 31 March of the following financial year, the FCH 2 Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

On receipt of the Court of Auditors' observations on the FCH 2 Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the FCH 2 Joint Undertaking shall draw up the FCH 2 Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the FCH 2 Joint Undertaking's final accounts.

The Executive Director shall, by 1 July of the following financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Governing Board's opinion.

The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.

The Executive Director shall provide the Court of Auditors with a reply to its observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Regulation (EU, Euratom) No 966/2012.

*Article 18***Internal audit**

The Commission's internal auditor shall exercise the same powers over the FCH 2 Joint Undertaking as those exercised in respect of the Commission.

*Article 19***Liability of Members and insurance**

1. The financial liability of the Members for the debts of the FCH 2 Joint Undertaking shall be limited to their contributions already made to the administrative costs.
2. The FCH 2 Joint Undertaking shall take out and maintain appropriate insurance.

*Article 20***Conflict of interest**

1. The FCH 2 Joint Undertaking, its bodies and staff shall avoid any conflict of interest in the implementation of their activities.
2. The FCH 2 Joint Undertaking Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its Members, bodies and staff. Those rules shall contain provision intended to avoid a conflict of interest in respect of the representatives of the Members serving in the Governing Board.

*Article 21***Winding up**

1. The FCH 2 Joint Undertaking shall be wound up at the end of the period defined in Article 1 of this Regulation.
 2. In addition to paragraph 1, the winding up procedure shall be automatically triggered if the Union or all Members other than the Union withdraw from the FCH 2 Joint Undertaking.
 3. For the purpose of conducting the proceedings to wind up the FCH 2 Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
 4. When the FCH 2 Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding up. Any surplus shall be distributed among the Members at the time of the winding up in proportion to their financial contribution to the FCH 2 Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.
 5. An ad hoc procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the FCH 2 Joint Undertaking as well as any procurement contract with duration longer than the duration of the FCH 2 Joint Undertaking.
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COUNCIL REGULATION (EU) No 560/2014
of 6 May 2014
establishing the Bio-based Industries Joint Undertaking
(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

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

Whereas

- (1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council ⁽²⁾.
- (2) Council Decision 2006/971/EC ⁽³⁾ identified specific public-private partnerships to be supported.
- (3) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽⁴⁾ established Horizon 2020 – The Framework Programme for Research and Innovation (2014-2020) ('Horizon 2020'). Horizon 2020 aims to achieve a greater impact with respect to research and innovation by combining Horizon 2020 and private-sector funds in public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate. In accordance with Regulation (EU) No 1291/2013, Union involvement in those partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union (TFEU) pursuant to Decision No 1982/2006/EC
- (4) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU ⁽⁵⁾, support may be provided to joint undertakings established in the framework of Horizon 2020 under the conditions specified in that Decision.
- (5) Commission Communication entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth' (the 'Europe 2020 strategy'), endorsed by the European Parliament and the Council, emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union.

⁽¹⁾ Opinion of 10 December 2013 (Not yet published in the Official Journal).

⁽²⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

⁽³⁾ Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 400, 30.12.2006, p. 86).

⁽⁴⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — The Framework Programme for Research and Innovation (2014-2020) (OJ L 347, 20.12.2013, p. 104).

⁽⁵⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the Specific Programme implementing Horizon 2020 (2014-2020) (OJ L 347, 20.12.2013, p. 965).

- (6) The Bio-based Industries Consortium (the 'BIC') developed a vision paper and a Strategic Innovation and Research Agenda, based on extensive consultation with public and private stakeholders. The Strategic Innovation and Research Agenda describes the main technological and innovation challenges that need to be overcome in order to develop sustainable and competitive bio-based industries in Europe and identifies research, demonstration and deployment activities to be carried out by a Joint Technology Initiative on Bio-based Industries (the 'BBI Initiative').
- (7) BIC is a non-profit organisation that was created to represent the industry group that supports the BBI Initiative. Its members cover the entire bio-based value chain and consist of large industries, small and medium-sized enterprises (SMEs), regional clusters, European trade associations, and European Technology Platforms. The aim of BIC is to ensure and promote the technological and economic development of the bio-based industries in Europe. Any interested stakeholders along the bio-based value chain may apply for membership. It applies general principles of openness and transparency regarding membership, ensuring a wide industrial involvement.
- (8) Any eligible institution may become a participant or a coordinator in the selected projects.
- (9) The Commission Communication of 13 February 2012 entitled 'Innovating for Sustainable Growth: A Bio-economy for Europe', and in particular its Action Plan, calls for a public-private partnership to support the establishment of sustainable and competitive bio-based industries and value chains in Europe. In view of the move towards a post-petroleum society, the Communication aims to integrate better biomass producing and processing sectors in order to reconcile food security and natural resource scarcity and environmental objectives with the use of biomass for industrial and energy purposes.
- (10) The Commission Communication of 10 October 2012 entitled 'A Stronger European Industry for Growth and Economic Recovery' confirms the strategic importance of bio-based industries for the future competitiveness of Europe, as identified in the Commission Communication of 21 December 2007 entitled 'A lead market initiative for Europe', and stresses the need for the BBI Initiative.
- (11) Bio-based Industries and their value chains are facing complex and substantial technology and innovation challenges. As a nascent sector, bio-based industries have to overcome the dispersion of technical competences and the limited publicly-available data on real resource availability in order to build sustainable and competitive value chains. In order to tackle those challenges, critical mass has to be achieved in a focused and coherent way at European level in terms of scale of activity, excellence, and potential for innovation.
- (12) The BBI Initiative should mitigate the different types of market failures that discourage private investment into pre-competitive research, demonstration and deployment activities for bio-based industries in Europe. In particular, it should ascertain the availability of reliable biomass supply taking into account other competing social and environmental demands, and support the development of advanced processing technologies, large scale demonstration activities and policy instruments, thus reducing the risk for private research and innovation investment in the development of sustainable and competitive bio-based products and biofuels.
- (13) The BBI Initiative should be a public-private partnership aiming at increasing investment in the development of a sustainable bio-based industry sector in Europe. It should provide environmental and socioeconomic benefits for European citizens, increase the competitiveness of Europe and contribute to establishing Europe as a key player in research, demonstration and the deployment of advanced bio-based products and biofuels.
- (14) The objective of the BBI Initiative is to implement a programme of research and innovation activities in Europe that will assess the availability of renewable biological resources that can be used for the production of bio-based materials, and on that basis support the establishment of sustainable bio-based value chains. Those activities should be carried out through collaboration between stakeholders along the entire bio-based value chains, including primary production and processing industries, consumer brands, SMEs, research and technology centres and universities.
- (15) The ambition and scope of the objectives of the BBI Initiative, the scale of the financial and technical resources that need to be mobilised, and the need to achieve the effective coordination and synergy of resources and funding, require the involvement of the Union. Therefore, a Joint Undertaking for the implementation of the Joint Technology Initiative on Bio-based Industries (the 'BBI Joint Undertaking') should be established as a legal entity.

- (16) The objective of the BBI Joint Undertaking should be achieved by means of supporting research and innovation activities by using resources from the public and private sectors. To this end, the BBI Joint Undertaking should organise calls for proposals for supporting research, demonstration and deployment activities.
- (17) To achieve maximum impact, the BBI Joint Undertaking should develop close synergies with other Union programmes in areas such as education, environment, competitiveness and SMEs, and with the Cohesion Policy funds and Rural Development Policy, which can specifically help to strengthen national and regional research and innovation capabilities in the context of smart specialisation strategies.
- (18) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore, the BBI Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the BBI Joint Undertaking and underpin smart specialisation efforts.
- (19) The founding members of the BBI Joint Undertaking should be the Union and BIC.
- (20) The rules for the organisation and operation of the BBI Joint Undertaking should be laid down in the Statutes of the BBI Joint Undertaking as part of this Regulation.
- (21) BIC has expressed, in writing, its agreement to pursue the research activities in the area of the BBI Joint Undertaking within a structure well adapted to the nature of a public-private partnership. It is appropriate that BIC accedes to the Statutes set out in the Annex to this Regulation by signing a letter of endorsement.
- (22) In order to achieve its objectives, the BBI Joint Undertaking should provide its financial support to the actions by means of open and transparent procedures, mainly in the form of grants to participants following open and competitive calls.
- (23) Contributions from the members other than the Union should not be limited to the administrative costs of the BBI Joint Undertaking and to the co-financing required to carry out research and innovation actions supported by the BBI Joint Undertaking. Their contributions should also cover to additional activities to be undertaken by the members other than the Union, as specified in an additional activities plan. In order to get a proper overview of the leverage effect of those additional activities, they should represent contributions to the broader BBI Initiative.
- (24) Participation in indirect actions funded by the BBI Joint Undertaking should comply with Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽¹⁾. The BBI Joint Undertaking should, moreover, ensure the consistent application of those rules based on relevant measures adopted by the Commission.
- (25) The BBI Joint Undertaking should also use electronic means managed by the Commission to ensure openness, transparency and facilitate participation. Therefore, the calls for proposals launched by the BBI Joint Undertaking should also be published on the single portal for participants, as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the BBI Joint Undertaking for inclusion in the Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.

⁽¹⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' (OJ L 347, 20.12.2013, p. 81).

- (26) The Union's financial contribution to the BBI Joint Undertaking should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾ and Commission Delegated Regulation (EU) No 1268/2012 ⁽²⁾.
- (27) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and disproportionate amounts of documentation and reporting should be avoided. Audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013.
- (28) The financial interests of the Union and of the other members of the BBI Joint Undertaking should be protected through proportionate measures throughout the expenditure cycle including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (29) The Commission's internal auditor should exercise the same powers over the BBI Joint Undertaking as those exercised in respect of the Commission.
- (30) In view of the specific nature and the current status of the joint undertakings, and to ensure continuity with the Seventh Framework Programme, the joint undertakings should continue to be subject to a separate discharge. By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, discharge for the implementation of the budget of the BBI Joint Undertaking should therefore be given by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the Union financial contribution to the BBI Joint Undertaking, but they should be aligned to the extent possible to the ones foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.
- (31) The BBI Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner to its appropriate bodies as well as promoting its activities, including information and dissemination activities, to the wider public. The rules of procedure of the bodies of the BBI Joint Undertaking should be made publicly available.
- (32) In order to facilitate its establishment, the Commission should be responsible for the establishment and initial operation of the BBI Joint Undertaking until it has the operational capacity to implement its own budget.
- (33) Given the aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals by the BBI Joint Undertaking should take into account the duration of Horizon 2020.
- (34) Since the objective of this Regulation, namely the strengthening of industrial research and innovation across the Union by means of the implementation of the BBI Joint Initiative by the BBI Joint Undertaking, cannot be sufficiently achieved by the Member States, but can rather, by reason of avoiding duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 (OJ L 362, 31.12.2012, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

1. For the implementation of the Joint Technology Initiative on Bio-based Industries ('BBI Initiative'), a joint undertaking within the meaning of Article 187 TFEU ('BBI Joint Undertaking'), shall be established until 31 December 2024. In order to take into account the duration of Horizon 2020, calls for proposals by the BBI Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases, calls for proposals may be launched by 31 December 2021.
2. The BBI Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.
3. The BBI Joint Undertaking shall have legal personality. In all Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those Member States. It may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings.
4. The seat of the BBI Joint Undertaking shall be located in Brussels, Belgium.
5. The Statutes of the BBI Joint Undertaking ('the Statutes') are set out in the Annex.

Article 2

Objectives

The BBI Joint Undertaking shall have the following objectives:

- (a) to contribute to the implementation of Regulation (EU) No 1291/2013 and in particular Part III of Decision 2013/743/EU;
- (b) to contribute to the objectives of the BBI Initiative of a more resource efficient and sustainable low-carbon economy and increasing economic growth and employment, in particularly in rural areas, by developing sustainable and competitive bio-based industries in Europe based on advanced biorefineries that source their biomass sustainably, and in particular to:
 - (i) demonstrate technologies that enable new chemical building blocks, new materials, and new consumer products from European biomass which replace the need for fossil-based inputs;
 - (ii) develop business models that integrate economic actors along the whole value chain from supply of biomass to biorefinery plants to consumers of bio-based materials, chemicals and fuels, including by means of creating new cross-sector interconnections and supporting cross-industry clusters; and
 - (iii) set up flagship biorefinery plants that deploy the technologies and business models for bio-based materials, chemicals and fuels and demonstrate cost and performance improvements to levels that are competitive with fossil-based alternatives.

Article 3

Union's financial contribution

1. The Union's financial contribution to the BBI Joint Undertaking, including EFTA appropriations, to cover administrative costs and operational costs shall be up to EUR 975 000 000. The contribution of the Union shall be paid from the appropriations in the general budget of the Union allocated to the Specific Programme, implementing Horizon 2020, established by Decision 743/2013/EU, in accordance with point (c)(iv) of Article 58(1) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 for bodies referred to in Article 209 of that Regulation.

2. The arrangements for the Union's financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the BBI Joint Undertaking.

3. The delegation agreement referred to in paragraph 2 of this Article shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Delegated Regulation (EU) No 1268/2012, and, inter alia, the following:

- (a) the requirements for the BBI Joint Undertaking's contribution regarding the relevant performance indicators referred to in Annex II to Decision No 2013/743/EU;
- (b) the requirements for the BBI Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision No 2013/743/EU;
- (c) the specific performance indicators related to the functioning of the BBI Joint Undertaking;
- (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations including on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (e) provisions for the publication of calls for proposals of the BBI Joint Undertaking also on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (f) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

Article 4

Contributions of members other than the Union

1. The members of the BBI Joint Undertaking other than the Union shall make, or arrange for their constituent entities to make, a total contribution of at least EUR 2 730 000 000 over the period defined in Article 1.

2. The contributions referred to in paragraph 1 of this Article shall consist of the following:

- (a) contributions to the BBI Joint Undertaking as laid down in Article 12(2), point (b) of Article 12(3) and point (c) of Article 12(3) of the Statutes.
- (b) in kind contributions of at least EUR 1 755 000 000 over the period defined in Article 1 by the members other than the Union or their constituent entities consisting of the costs incurred by them in implementing additional activities outside the work plan of the BBI Joint Undertaking contributing to the objectives of the BBI Initiative. Other Union funding programmes may support those costs in compliance with the applicable rules and procedures. In such cases, Union financing shall not be a substitute for the in kind contributions from the members other than the Union or their constituent entities.

The costs referred to in point (b) shall not be eligible for financial support by the BBI Joint Undertaking. The corresponding activities shall be set out in an annual additional activities plan that shall indicate the estimated value of those contributions.

3. The members of the BBI Joint Undertaking other than the Union shall report each year by 31 January to the Governing Board of the BBI Joint Undertaking on the value of the contributions referred to in paragraph 2 made in each of the previous financial years. The States Representatives Group shall also be informed thereof in a timely manner.

4. For the purpose of valuing the contributions referred to in point (b) of paragraph 2 of this Article and point (c) of Article 12(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the BBI Joint Undertaking should there be any uncertainty arising from the certification. For the purposes of this Regulation, the costs incurred in additional activities shall not be audited by the BBI Joint Undertaking or any Union body.

5. The Commission may terminate, proportionally reduce or suspend the Union's financial contribution to the BBI Joint Undertaking or trigger the winding-up procedure referred to in Article 20(2) of the Statutes if those members or their constituent entities do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraph 2 of this Article. The Commission decision shall not hinder the reimbursement of eligible costs already incurred by the members by the time of the notification of the decision to the BBI Joint Undertaking.

Article 5

Financial rules

Without prejudice to Article 12 of this Regulation, the BBI Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014 ⁽¹⁾.

Article 6

Staff

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽²⁾ ('Staff Regulations' and 'Conditions of Employment') and the rules adopted jointly by the institutions of the Union for the purpose of applying the Staff Regulations and Conditions of Employment shall apply to the staff of the BBI Joint Undertaking.

2. The Governing Board shall exercise, with respect to the staff of the BBI Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and the powers conferred by the Conditions of Employment on the authority empowered to conclude contract ('the appointing authority powers').

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation may be suspended. The Executive Director is authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any sub-delegation by the latter. In such a case the Governing Board shall exercise itself the appointing authority powers or delegate them to one of its members or to a staff member of the BBI Joint Undertaking other than the Executive Director.

⁽¹⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

3. The Governing Board shall adopt appropriate implementing rules as regards the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations.
4. The staff resources shall be determined in the staff establishment plan of the BBI Joint Undertaking, indicating the number of temporary posts by function group and by grade and the number of contract staff expressed in full-time equivalents, in line with its annual budget.
5. The staff of the BBI Joint Undertaking shall consist of temporary staff and contract staff.
6. All costs related to staff shall be borne by the BBI Joint Undertaking.

Article 7

Seconded national experts and trainees

1. The BBI Joint Undertaking may make use of seconded national experts and trainees not employed by the BBI Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to the information on staff resources as referred to in Article 6(4) in accordance with the annual budget.
2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the BBI Joint Undertaking and on the use of trainees.

Article 8

Privileges and Immunities

The Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and TFEU, shall apply to the BBI Joint Undertaking and its staff.

Article 9

Liability of the BBI Joint Undertaking

1. The contractual liability of the BBI Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.
2. In the case of non-contractual liability, the BBI Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the BBI Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the BBI Joint Undertaking and shall be covered by its resources.
4. The BBI Joint Undertaking shall be solely responsible for meeting its obligations.

Article 10

Jurisdiction of the Court of Justice of the European Union and applicable law

1. The Court of Justice of the European Union shall have jurisdiction:
 - (a) pursuant to any arbitration clause contained in agreements or contracts concluded by the BBI Joint Undertaking, or in its decisions;

(b) in disputes relating to compensation for damage caused by the staff of the BBI Joint Undertaking in the performance of their duties;

(c) in any dispute between the BBI Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment.

2. Regarding any matter not covered by this Regulation or by other Union legal acts, the law of the State where the seat of the BBI Joint Undertaking is located shall apply.

Article 11

Evaluation

1. By 30 June 2017, the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the BBI Joint Undertaking. The Commission shall prepare a report on that evaluation, which shall include conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The results of the interim evaluation of the BBI Joint Undertaking shall be taken into account in the in-depth assessment and in the interim evaluation referred to in Article 32 of Regulation (EU) No 1291/2013.

2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1 of this Article, the Commission may act in accordance with Article 4(5) or take any other appropriate action.

3. Within six months after the winding-up of the BBI Joint Undertaking, but no later than two years after the triggering of the winding-up procedure referred to in Article 20 of the Statutes, the Commission shall conduct a final evaluation of the BBI Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

Article 12

Discharge

By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, the discharge for the implementation of the budget of the BBI Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council in accordance with the procedure provided for in the financial rules of the BBI Joint Undertaking.

Article 13

Ex-post audits

1. Ex-post audits of expenditure on indirect actions shall be carried out by the BBI Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of the Horizon 2020 indirect actions.

2. The Commission may decide to carry out itself the audits referred to in paragraph 1 of this Article. In such cases, it shall do so in accordance with the applicable rules, in particular Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

Article 14

Protection of the financial interests of the members

1. The BBI Joint Undertaking shall grant Commission staff and other persons authorised by the BBI Joint Undertaking or the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.

2. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and Regulation (EC, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾ and with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement, decision or contract funded under this Regulation.

3. Without prejudice to paragraphs 1 and 2, agreements, decisions and contracts resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the BBI Joint Undertaking, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

4. The BBI Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.

5. The BBI Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by the European Anti-Fraud Office (OLAF) ⁽³⁾. The BBI Joint Undertaking shall adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

Article 15

Confidentiality

Without prejudice to Article 16, the BBI Joint Undertaking shall ensure the protection of sensitive information the disclosure of which could damage the interests of its members or of participants in the activities of the BBI Joint Undertaking.

Article 16

Transparency

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽⁴⁾ shall apply to documents held by the BBI Joint Undertaking.

2. The BBI Joint Undertaking Governing Board may adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.

3. Without prejudice to Article 10 of this Regulation, decisions taken by the BBI Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 TFEU.

Article 17

Rules for participation and dissemination

Regulation (EU) No 1290/2013 shall apply to the actions funded by the BBI Joint Undertaking. In accordance with that Regulation, the BBI Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in Article 1 of the Statutes.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

⁽⁴⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

*Article 18***Support from the host State**

An administrative agreement may be concluded between the BBI Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the BBI Joint Undertaking.

*Article 19***Initial actions**

1. The Commission shall be responsible for the establishment and initial operation of the BBI Joint Undertaking until it has the operational capacity to implement its own budget. The Commission shall carry out, in accordance with Union law, all necessary actions in collaboration with the other members and with the involvement of the competent bodies of the BBI Joint Undertaking.

2. For the purpose referred to in paragraph 1:

(a) until the Executive Director takes up his duties following his/her appointment by the Governing Board in accordance with Article 8 of the Statutes, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director who may be assisted by a limited number of Commission officials:

(b) by derogation from Article 6(2) of this Regulation, the interim Director shall exercise the appointing authority powers;

(c) the Commission may assign a limited number of its officials on an interim basis.

3. The interim Executive Director may authorise all payments covered by the appropriations provided in the annual budget of the BBI Joint Undertaking once approved by the Governing Board and may conclude agreements, decisions and contracts, including staff contracts, following the adoption of the BBI Joint Undertaking's staff establishment plan.

4. The interim Executive Director shall, with the agreement of the Executive Director of the BBI Joint Undertaking and subject to the approval of the Governing Board, determine the date on which the BBI Joint Undertaking will have the capacity to implement its own budget. From that date, the Commission shall abstain from making commitments and executing payments for the activities of the BBI Joint Undertaking.

*Article 20***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 May 2014.

For the Council
The President
G. STOURNARAS

ANNEX

STATUTES OF THE BIO-BASED INDUSTRIES JOINT UNDERTAKING*Article 1***Tasks**

The BBI Joint Undertaking shall carry out the following tasks:

- (a) ensure the establishment and sustainable management of the BBI Initiative;
- (b) mobilise the public and private sector resources needed;
- (c) establish and develop close and long-term cooperation between the Union, industry and the other stakeholders;
- (d) ensure the efficiency of the BBI Initiative;
- (e) reach the critical mass of research effort to embark on a long-term programme;
- (f) monitor progress towards the achievement of the objectives of the BBI Joint Undertaking;
- (g) provide financial support to research and innovation indirect actions mainly through grants;
- (h) engage in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (i) liaise with a broad range of stakeholders including research organisations and universities;
- (j) any other task needed to achieve the objectives set out in Article 2 of this Regulation.

*Article 2***Members**

1. The members of the BBI Joint Undertaking shall be:

- (a) the Union, represented by the Commission;
- (b) upon acceptance of these Statutes, by means of a letter of endorsement, the Bio-based Industries Consortium Aisbl (the 'BIC'), a non-profit organisation established under Belgium law, with its permanent office in Brussels, Belgium.

2. 'Constituent entities' are the entities that constitute each member of the BBI Joint Undertaking other than the Union, according to that member's Statutes.

*Article 3***Changes to membership**

1. Provided that it contributes to the funding referred to in Article 12 to achieve the objectives of the BBI Joint Undertaking set out in Article 2 of this Regulation, and accepts the Statutes of the BBI Joint Undertaking, any legal entity that directly or indirectly supports research and innovation in a Member State or in a country associated to Horizon 2020 may apply to become a member of the BBI Joint Undertaking.

2. Any application for membership to the BBI Joint Undertaking shall be addressed to the Governing Board of the BBI Joint Undertaking, accompanied by a proposal to adapt the composition of that Governing Board.
3. The Governing Board shall assess the application taking into account the relevance and the potential added value of the applicant as regards the achievement of the objectives of the BBI Joint Undertaking and shall decide on the application.
4. Any member may terminate its membership of the BBI Joint Undertaking. The termination shall become effective and irrevocable six months after notification to the other members. As from the date of termination, the former member shall be discharged from any obligations other than those approved or incurred by the BBI Joint Undertaking prior to terminating the membership.
5. Membership of the BBI Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.
6. Upon any change to membership pursuant to this Article, the BBI Joint Undertaking shall immediately publish on its website an updated list of its members, together with the date of such change.

Article 4

Bodies of the BBI Joint Undertaking

1. The bodies of the BBI Joint Undertaking shall be:
 - (a) the Governing Board;
 - (b) the Executive Director;
 - (c) the Scientific Committee;
 - (d) the States Representatives Group.
2. The Scientific Committee and the States Representatives Group shall be advisory bodies of the BBI Joint Undertaking.

Article 5

Composition of the Governing Board

The Governing Board shall be composed of the following:

- (a) five representatives of the Commission, on behalf of the Union; and
- (b) five representatives of the members other than the Union, at least one of which should be a Small and Medium Enterprise (SMEs) representative.

Article 6

Functioning of the Governing Board

1. The Union shall hold 50 % of the voting rights. The voting rights of the Union shall be indivisible. The members other than the Union shall hold an equal number of votes. The Members shall use their best efforts to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75 % of all votes, including the votes of those who are absent.

2. The Governing Board shall elect its chairperson for a period of two years.
3. The Governing Board shall hold its ordinary meetings twice a year. It may hold extraordinary meetings at the request of the Commission or of a majority of the representatives of the members other than the Union, or at the request of the chairperson. The meetings of the Governing Board shall be convened by its chairperson and shall usually take place at the seat of the BBI Joint Undertaking.

The Executive Director shall have the right to take part in the deliberations, but shall have no voting rights.

The chairperson of the States Representatives Group shall have the right to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

The chairperson of the Scientific Committee shall have the right, whenever issues falling within its tasks are discussed, to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

The Governing Board may invite, on a case by case basis, other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union and representatives of civil society.

4. The representatives of the members shall not be personally liable for actions carried out in their capacity as representatives on the Governing Board.
5. The Governing Board shall adopt its own rules of procedure.

Article 7

Tasks of the Governing Board

1. The Governing Board shall have overall responsibility for the strategic orientation and the operations of the BBI Joint Undertaking and shall supervise the implementation of its activities.
2. The Commission, within its role in the Governing Board, shall seek to ensure coordination between the activities of the BBI Joint Undertaking and the relevant activities of Horizon 2020 with a view to promoting synergies when identifying priorities covered by collaborative research.
3. The Governing Board shall in particular carry out the following tasks:
 - (a) assess, accept or reject applications for a membership in accordance with Article 3 of these Statutes;
 - (b) decide on the termination of the membership in the BBI Joint Undertaking of any member that does not fulfil its obligations;
 - (c) adopt the financial rules of the BBI Joint Undertaking in accordance with Article 5 of this Regulation;
 - (d) adopt the annual budget of the BBI Joint Undertaking, including the corresponding staff establishment plan indicating the number of temporary posts by function group and by grade as well as the number of contract staff and seconded national experts expressed in full-time equivalents;
 - (e) exercise the appointing authority powers with respect to the staff, in accordance with Article 6(2) of this Regulation;
 - (f) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;

- (g) approve the organisational structure of the Programme Office upon recommendation of the Executive Director;
- (h) adopt the annual work plan and the corresponding expenditure estimates, as proposed by the Executive Director after having consulted the Scientific Committee and the States Representatives Group;
- (i) approve the annual additional activities plan referred to in point (b) of Article 4(2) of this Regulation on the basis of a proposal from the members other than the Union and after having consulted, where appropriate, an *ad hoc* advisory group;
- (j) approve the annual activity report, including the corresponding expenditure;
- (k) arrange, as appropriate, for the establishment of an internal audit capability of the BBI Joint Undertaking;
- (l) approve the calls as well as, where appropriate, the related rules for submission, evaluation, selection, award and review procedures;
- (m) approve the list of actions selected for funding on the basis of the ranking list produced by a panel of independent experts;
- (n) establish the BBI Joint Undertaking's communications policy upon a recommendation by the Executive Director;
- (o) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 6(3) of this Regulation;
- (p) where appropriate, establish rules on the secondment of national experts to the BBI Joint Undertaking and on the use of trainees in accordance with Article 7 of this Regulation;
- (q) where appropriate, set up advisory groups in addition to the bodies of the BBI Joint Undertaking;
- (r) where appropriate, submit to the Commission a request to amend this Regulation proposed by a member of the BBI Joint Undertaking;
- (s) be responsible for any task that is not specifically allocated to a particular body of the BBI Joint Undertaking which it may assign to any of those bodies;

Article 8

Appointment, dismissal or extension of the term of office of the Executive Director

1. The Executive Director shall be appointed by the Governing Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The Commission shall associate the representation from the other members of the BBI Joint Undertaking in the selection procedure as appropriate.

In particular, an appropriate representation from the other members of the BBI Joint Undertaking shall be ensured at the pre-selection stage of the selection procedure. For that purpose, the members other than the Union shall appoint by common agreement a representative as well as an observer on behalf of the Governing Board.

2. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of the BBI Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract of the Executive Director, the BBI Joint Undertaking shall be represented by the chairperson of the Governing Board.

3. The term of office of the Executive Director shall be three years. By the end of that period, the Commission associating the members other than the Union as appropriate shall undertake an assessment of the performance of the Executive Director and the BBI Joint Undertaking's future tasks and challenges.

4. The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than four years.

5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

6. The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the members other than the Union as appropriate.

Article 9

Tasks of the Executive Director

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the BBI Joint Undertaking in accordance with the decisions of the Governing Board.

2. The Executive Director shall be the legal representative of the BBI Joint Undertaking. The Executive Director shall be accountable to the Governing Board.

3. The Executive Director shall implement the budget of the BBI Joint Undertaking.

4. The Executive Director shall, in particular, carry out the following tasks in an independent manner:

(a) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;

(b) prepare and submit for adoption to the Governing Board the annual work plan and the corresponding expenditure estimates;

(c) submit for opinion to the Governing Board the annual accounts;

(d) prepare and submit for approval to the Governing Board the annual activity report, including the information on corresponding expenditure;

(e) submit for approval to the Governing Board the list of actions selected for funding;

(f) inform the States Representatives Group and the Scientific Committee regularly of all matters relevant to their advisory role;

(g) sign individual agreements and decisions;

- (h) sign procurement contracts;
- (i) implement the BBI Joint Undertaking's communications policy;
- (j) organise, direct and supervise the operations and the staff of the BBI Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
- (k) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
- (l) ensure that risk assessment and risk management are performed;
- (m) take any other measures needed for assessing the progress of the BBI Joint Undertaking towards achieving its objectives;
- (n) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.

5. The Executive Director shall set up a Programme Office for the execution, under his or her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of BBI Joint Undertaking and shall in particular carry out the following tasks:

- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules of the BBI Joint Undertaking;
- (b) manage the calls as provided for in the annual work plan and the administration of the agreements and decisions, including their coordination;
- (c) provide to the Members and the other bodies of the BBI Joint Undertaking all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
- (d) act as the secretariat of the bodies of the BBI Joint Undertaking and provide support to advisory groups set up by the Governing Board.

Article 10

Scientific Committee

1. The Scientific Committee shall consist of no more than fifteen members. It shall elect a chairperson from among its members.
2. The members shall reflect a balanced representation of worldwide recognised experts from academia, industry, SMEs, non-governmental organisations and regulatory bodies. Collectively, the Scientific Committee members shall have the necessary scientific competencies and expertise covering the technical domain needed to make science-based recommendations to the BBI Joint Undertaking.
3. The Governing Board shall establish the specific criteria and selection process for the composition of the Scientific Committee and shall appoint its members. The Governing Board shall take into consideration the potential candidates proposed by the BBI States Representatives Group.
4. The Scientific Committee shall carry out the following tasks:
 - (a) advise on the scientific priorities to be addressed in the annual work plans;

- (b) advise on the scientific achievements described in the annual activity report.
- 5. The Scientific Committee shall meet at least twice a year. The meetings shall be convened by its chairperson.
- 6. The Scientific Committee may, with the agreement of the chairperson, invite other persons to attend its meetings.
- 7. The Scientific Committee shall adopt its own rules of procedure.

Article 11

States Representatives Group

1. The States Representatives Group shall consist of one representative of each Member State and of each country associated to Horizon 2020. It shall elect a chairperson among its members.
2. The States Representatives Group shall meet at least twice a year. The meetings shall be convened by its chairperson. The Executive Director and the chairperson of the Governing Board or their representatives shall attend the meetings.

The chairperson of the States Representatives Group may invite other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union, representatives of civil society or representatives of SME associations.

3. The States Representatives Group shall be consulted and, in particular, review information and provide opinions on the following matters:
 - (a) programme progress of the BBI Joint Undertaking and achievement of its targets, including the calls for proposals and proposals evaluation process;
 - (b) updating of strategic orientation;
 - (c) links to Horizon 2020;
 - (d) annual work plans;
 - (e) involvement of SMEs.
4. The States Representatives Group shall also provide information to, and act as an interface within, the BBI Joint Undertaking on the following matters:
 - (a) the status of relevant national or regional research and innovation programmes and identification of potential areas of cooperation, including deployment of relevant technologies, to allow synergies and avoid overlaps;
 - (b) specific measures taken at national or regional level with regard to dissemination events, dedicated technical workshops and communication activities.
 - (c) specific measures taken at national or regional level with regard to deployment activities in relation to the BBI Initiative.

5. The States Representatives Group may issue, on its own initiative, recommendations or proposals to the Governing Board on technical, managerial and financial matters as well as on annual plans, in particular when those matters affect national or regional interests.

The Governing Board shall inform without undue delay the States Representatives Group of the follow-up it has given to such recommendations or proposals, or it shall give reasons if they are not followed up.

6. The States Representatives Group shall receive information on a regular basis, among others on the participation in indirect actions funded by the BBI Joint Undertaking, on the outcome of each call for proposals and project implementation, on synergies with other relevant Union programmes, and on the execution of the BBI budget.

7. The States Representatives Group shall adopt its own rules of procedure.

Article 12

Sources of financing

1. The BBI Joint Undertaking shall be jointly funded by the Union and the members other than the Union or their constituent entities through financial contributions paid in instalments and contributions consisting of the costs incurred by them in implementing indirect actions that are not reimbursed by the BBI Joint Undertaking.

2. The administrative costs of the BBI Joint Undertaking shall not exceed EUR 58 500 000 and shall be covered by means of financial contributions divided equally on an annual basis between the Union and the members other than the Union. If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the BBI Joint Undertaking.

3. The operational costs of the BBI Joint Undertaking shall be covered by means of:

(a) the Union's financial contribution;

(b) financial contribution by the members other than the Union;

(c) in kind contributions by the members other than the Union or their constituent entities consisting of the costs incurred by them in implementing indirect actions less the contribution of the BBI Joint Undertaking and any other Union contribution to those costs.

4. The financial contribution by the members other than the Union to the operational costs referred to in paragraph 3(b) shall be at least EUR 182 500 000 over the period provided for in Article 1 of this Regulation.

5. The resources of the BBI Joint Undertaking entered to its budget shall be composed of the following contributions:

(a) members' financial contributions to the administrative costs;

(b) members' financial contributions to the operational costs;

(c) any revenue generated by the BBI Joint Undertaking;

(d) any other financial contributions, resources and revenues.

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

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

Article 13

Financial commitments

The financial commitments of the BBI Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its members.

Article 14

Financial year

The financial year shall run from 1 January to 31 December.

Article 15

Operational and financial planning

1. The Executive Director shall submit for adoption to the Governing Board a draft annual work plan, which shall include a detailed plan of the research and innovation activities, the administrative activities and the corresponding expenditure estimates for the coming year. The draft work plan shall also include the estimated value of the contributions to be made in accordance with point (c) of Article 12(3) of the Statutes.
2. The annual work plan for a particular year shall be adopted by the end of the previous year. The annual work plan shall be made publicly available.
3. The Executive Director shall prepare the draft annual budget for the following year and submit it to the Governing Board for adoption.
4. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
5. The annual budget shall be adapted in order to take into account the amount of the Union's financial contribution as set out in the Union budget.

Article 16

Operational and financial reporting

1. The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the BBI Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the BBI Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
- (b) the actions submitted, including a breakdown by participant type, including SMEs, and by country;

(c) the actions selected for funding, including a breakdown by participant type, including SMEs, and by country and indicating the contribution of the BBI Joint Undertaking to the individual participants and actions.

2. Once approved by the Governing Board, the annual activity report shall be made publicly available.

3. By 1 March of the following financial year, the accounting officer of the BBI Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and the Court of Auditors.

By 31 March of the following financial year, the BBI Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

On receipt of the Court of Auditors' observations on the BBI Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the BBI Joint Undertaking shall draw up the BBI Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the BBI Joint Undertaking's final accounts.

The Executive Director shall, by 1 July of the following financial year, send the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Governing Board's opinion.

The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.

The Executive Director shall provide the Court of Auditors with a reply to its observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Regulation (EU, Euratom) No 966/2012.

Article 17

Internal audit

The Commission's internal auditor shall exercise the same powers over the BBI Joint Undertaking as those exercised in respect of the Commission.

Article 18

Liability of members and insurance

1. The financial liability of the members for the debts of the BBI Joint Undertaking shall be limited to their contributions already made to the administrative costs.

2. The BBI Joint Undertaking shall take out and maintain appropriate insurance.

Article 19

Conflict of interest

1. The BBI Joint Undertaking, its bodies and staff shall avoid any conflict of interest in the implementation of their activities.

2. The BBI Joint Undertaking Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members, bodies and staff. Those rules shall contain the provisions intended to avoid a conflict of interest in respect of the representatives of the members serving in the Governing Board.

Article 20

Winding up

1. The BBI Joint Undertaking shall be wound up at the end of the period laid down in Article 1 of this Regulation.
 2. In addition to paragraph 1, the winding-up procedure shall be automatically triggered if the Union or all members other than the Union withdraw from the BBI Joint Undertaking.
 3. For the purpose of conducting the proceedings to wind up the BBI Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
 4. When the BBI Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding-up. Any surplus shall be distributed among the members at the time of the winding-up in proportion to their financial contribution to the BBI Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.
 5. An *ad hoc* procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the BBI Joint Undertaking as well as any procurement contract with a duration longer than the duration of the BBI Joint Undertaking.
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COUNCIL REGULATION (EU) No 561/2014
of 6 May 2014
establishing the ECSEL Joint Undertaking
(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

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

Whereas:

- (1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for in Decision No 1982/2006/EC of the European Parliament and of the Council ⁽²⁾.
- (2) Council Decision 2006/971/EC ⁽³⁾ identified specific public-private partnerships to be supported, including public-private partnerships in the specific areas of the nanoelectronics (ENIAC) and embedded computing systems (ARTEMIS) Joint Technology Initiatives.
- (3) Commission Communication entitled 'Europe 2020 A Strategy for smart, sustainable and inclusive growth' (the 'Europe 2020 strategy'), endorsed by the European Parliament and the Council, emphasises the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union.
- (4) Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽⁴⁾ established Horizon 2020 – The Framework Programme for Research and Innovation (2014-2020) ('Horizon 2020'). Horizon 2020 aims to achieve a greater impact with respect to research and innovation by combining Horizon 2020 and private-sector funds in public-private partnerships in key areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate. In accordance with Regulation (EU) No 1291/2013, Union involvement in those partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union (TFEU) pursuant to Decision No 1982/2006/EC.

⁽¹⁾ Opinion of 10 December 2013 (Not yet published in the Official Journal).

⁽²⁾ Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

⁽³⁾ Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 400, 30.12.2006, p. 86).

⁽⁴⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — The Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

- (5) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU ⁽¹⁾, further support should be provided to Joint Undertakings established under Decision No 1982/2006/EC under the conditions specified in Decision 2013/743/EU. The Industrial Leadership priority targets two specific activity lines under Information and Communication Technologies: 'micro- and nanoelectronics', and 'a new generation of components and systems, engineering of advanced and smart embedded components and systems'. ARTEMIS and ENIAC should be combined into a single initiative.
- (6) The Commission Communication of 26 June 2012 entitled 'A European strategy for Key Enabling Technologies — A bridge to growth and jobs' identifies key enabling technologies, which include micro- and nanoelectronics, as indispensable sources of innovation. There is currently a gap between basic knowledge generation and its subsequent commercialisation into goods and services. This needs to be tackled, inter alia, through a focused effort on pilot manufacturing lines and innovation pilot projects, including those of a larger scale, to achieve technology and product validation under industrial conditions, and more integration and cross-fertilisation between the various key enabling technologies.
- (7) According to the Commission Communication of 23 May 2013 entitled 'A European strategy for micro- and nanoelectronics components and systems', micro- and nanoelectronics components and systems underpin innovation and the competitiveness of all major economic sectors. The importance of the area and the challenges faced by the stakeholders in the Union require urgent action in order to leave no weak link in Europe's innovation and value chains. It is thus proposed to set up a mechanism at Union level to combine and focus the provision of support to research and innovation in electronic components and systems by Member States, the Union and the private sector.
- (8) With a view to regaining a leading position in the nanoelectronics eco-system for Europe, the industrial and research stakeholders have proposed a strategic research and innovation programme with a total investment of EUR 100 billion for the period up to the year 2020, aiming at increasing Europe's nanoelectronics-based worldwide revenues by over EUR 200 billion per year and creating an additional 250 000 direct and induced jobs in Europe.
- (9) The term 'electronic components and systems' should encompass the areas of micro- and nanoelectronics, embedded/cyber-physical and smart integrated systems and applications.
- (10) The ENIAC Joint Undertaking set up by Council Regulation (EC) No 72/2008 ⁽²⁾ successfully implemented a research agenda strengthening the relevant areas in nanoelectronics in which Europe had improved its competitiveness by leveraging investments in priority subjects and by engaging the whole ecosystem.
- (11) The ARTEMIS Joint Undertaking set up by Council Regulation (EC) No 74/2008 ⁽³⁾ has successfully demonstrated its strategic positioning which combines top-down guidance with bottom-up definition of the technical issues to be addressed, attracting projects with outcomes directly relevant for industry.
- (12) The interim evaluations of the ENIAC and ARTEMIS Joint Undertakings have shown that they are useful and adapted tools to combine forces, and have a significant impact on their respective domains. The research areas covered by the ENIAC and ARTEMIS Joint Undertakings should, therefore, continue to be supported in order to further improve the competitiveness of the electronic components and systems industry in Europe, and focus efforts on a set of strategic activities commonly agreed among the private and public stakeholders engaged in the initiatives.

⁽¹⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

⁽²⁾ Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking (OJ L 30, 4.2.2008, p. 21).

⁽³⁾ Council Regulation (EC) No 74/2008 of 20 December 2007 on the establishment of the ARTEMIS Joint Undertaking to implement a Joint Technology Initiative in Embedded Computing Systems (OJ L 30, 4.2.2008, p. 52).

- (13) Continued support for the nanoelectronics and embedded computing systems research programmes should build on the experience acquired from the operations of the ENIAC and ARTEMIS Joint Undertakings, including the results of their interim evaluations, the stakeholders' recommendations and the need to achieve an effective coordination and synergy of resources.
- (14) There is increased interaction between the stakeholders of the European Technology Platforms ARTEMIS, ENIAC and the European Technology Platform on Smart Systems Integration (EPoSS), as detailed in the High Level Strategic Research and Innovation Agenda of the ICT Components and Systems Industries which they released in 2012. In order to best capture and build on the synergies stemming from those interactions, a single Joint Undertaking covering electronic components and systems including the previous activities of the ENIAC and ARTEMIS Joint Undertakings and using a more fit-for-purpose structure and rules in order to enhance efficiency and to ensure simplification (the 'ECSEL Joint Undertaking'), should be set up. To this effect, the ECSEL Joint Undertaking should adopt financial rules specific to its needs in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾.
- (15) The implementation of the High Level Strategic Research and Innovation agenda put forward by the industrial stakeholders relies on several sources of support: national, regional and intergovernmental programmes, the Union Framework Programme and a Joint Technology Initiative in the form of a public-private partnership.
- (16) The public-private partnership on electronic components and systems should combine the financial and technical means that are essential to master the complexity of the ever escalating pace of innovation in this area. Therefore, the members of the ECSEL Joint Undertaking should be the Union, Member States and Associated Countries to Horizon 2020 ('Associated Countries') on a voluntary basis, and associations as private members representing their constituent companies and other organisations active in the field of electronic components and systems in Europe. The ECSEL Joint Undertaking should be open to new members.
- (17) The ECSEL Joint Undertaking should address clearly defined topics that would enable European industries at large to design, manufacture and use the most innovative technologies in electronic components and systems. Structured and coordinated financial support at European level is necessary to help research teams and European industries remain at the leading edge in a highly competitive international context, to ensure the fast and broad industrial exploitation of technology leadership across Europe generating important spill-overs for society, to share risk-taking and the joining of forces by aligning strategies and investments towards a common European interest. The Commission may consider, upon notification by the Member State or group of Member States concerned, that the ECSEL Joint Undertaking's initiatives qualify as important projects of common European interest, provided that all relevant conditions are met.
- (18) The private associations AENEAS, ARTEMISIA and EPoSS have expressed in writing their agreement to the research and innovation activities in the area of the ECSEL Joint Undertaking being pursued within a structure well adapted to the nature of a public-private partnership. It is appropriate that the private associations accept the Statutes set out in the Annex to this Regulation by means of a letter of endorsement.
- (19) In order to achieve its objectives, the ECSEL Joint Undertaking should provide financial support mainly in the form of grants to participants following open and competitive calls for proposals. Such financial support should be targeted at proven market failures that prevent the development of the programme concerned, and should have an incentive effect in that it changes the behaviour of the recipient.
- (20) The ECSEL Joint Undertaking should operate in an open and transparent way providing all relevant information in a timely manner to its appropriate bodies as well as promoting its activities, including information and dissemination activities to the wider public. The rules of procedure of the bodies of the ECSEL Joint Undertaking should be made publicly available.

⁽¹⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (21) In assessing the overall impact of the ECSEL Joint Undertaking, investments from all legal entities other than the Union and the states participating in the ECSEL Joint Undertaking (the 'ECSEL P Participating States') contributing to the objectives of the ECSEL Joint Undertaking should be taken into account. Those overall investments are expected to amount to at least EUR 2 340 000 000.
- (22) In order to maintain a level playing field for all undertakings active in the internal market, funding provided by the Union Framework Programme should be designed in accordance with the State aid rules so as to ensure the effectiveness of public spending and prevent market distortions such as crowding-out of private funding, the creation of ineffective market structures or the preservation of inefficient firms.
- (23) Participation in indirect actions funded by the ECSEL Joint Undertaking should comply with Regulation (EU) No 1290/2013 of the European Parliament and of the Council⁽¹⁾. The ECSEL Joint Undertaking should, moreover, ensure the consistent application of those rules based on relevant measures adopted by the Commission. Specific criteria regarding the eligibility of individual applicants to receive funding from ECSEL Participating States may be determined by the relevant authorities. Specific rules regarding the eligibility of costs may be determined by an ECSEL Participating State when it does not entrust the ECSEL Joint Undertaking with the implementation of its contributions to the participants in indirect actions.
- (24) The ECSEL Joint Undertaking should also use the electronic means managed by the Commission to ensure openness, transparency and facilitate participation in it. Therefore, the calls for proposals launched by the ECSEL Joint Undertaking should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the ECSEL Joint Undertaking for inclusion in Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.
- (25) The ECSEL Joint Undertaking should take into account the OECD definitions regarding Technological Readiness Level in the classification of technological research, product development and demonstration activities.
- (26) The Union's financial contribution should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012⁽²⁾.
- (27) For the purpose of simplification, the administrative burden should be reduced for all parties. Double audits and disproportionate amounts of documentation and reporting should be avoided. Audits of recipients of Union funds under this Regulation should be carried out in compliance with Regulation (EU) No 1291/2013.
- (28) The financial interests of the Union and of the other members of the ECSEL Joint Undertaking should be protected by proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (29) The Commission's internal auditor should exercise the same powers over the ECSEL Joint Undertaking as those exercised in respect of the Commission.

⁽¹⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

⁽²⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (30) In view of the specific nature and the current status of the Joint Undertakings, and to ensure continuity with the Seventh Framework Programme, the joint undertakings should continue to be subject to a separate discharge. By way of derogation from Articles 60(7) and 209 of Regulation (EU, Euratom) No 966/2012, discharge for the implementation of the budget of the ECSEL Joint Undertaking should therefore be given by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the Union financial contribution to the ECSEL Joint Undertaking, but they should be aligned to the extent possible to the ones foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.
- (31) Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore the ECSEL Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the ECSEL Joint Undertaking and underpin smart specialisation efforts.
- (32) The ENIAC and ARTEMIS Joint Undertakings were set up for a period up to 31 December 2017. The ECSEL Joint Undertaking should provide continued support to the nanoelectronics and embedded computing systems research programmes by implementing the remaining actions initiated under Regulations (EC) No 72/2008 and (EC) No 74/2008 in accordance with those Regulations. The transition from the ENIAC and ARTEMIS Joint Undertakings to the ECSEL Joint Undertaking should be aligned and synchronised with the transition from the Seventh Framework Programme to Horizon 2020 to ensure the optimal use of the funding available for research. In the interest of legal certainty and clarity, Regulations (EC) No 72/2008 and (EC) No 74/2008 should, therefore, be repealed and transitional provisions should be set out.
- (33) Given the aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals under the ECSEL Joint Undertaking should take into account the duration of Horizon 2020 Framework Programme.
- (34) Since the objective of this Regulation, namely the strengthening of industrial research and innovation across the Union by means of the implementation, by the ECSEL Joint Undertaking, of the Joint Technology Initiative on 'Electronic Components and Systems for European Leadership', cannot be sufficiently achieved by the Member States, but can rather, by reason of avoiding unnecessary duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

1. For the implementation of the Joint Technology Initiative on 'Electronic Components and Systems for European Leadership', a joint undertaking within the meaning of Article 187 TFEU (the 'ECSEL Joint Undertaking'), shall be established for a period up to 31 December 2024. In order to take into account the duration of Horizon 2020, calls for proposals under the ECSEL Joint Undertaking shall be launched at the latest by 31 December 2020. In duly justified cases, calls for proposals may be launched by 31 December 2021.
2. The ECSEL Joint Undertaking shall replace and succeed the ENIAC and ARTEMIS Joint Undertakings, established by Regulations (EC) No 72/2008 and (EC) No 74/2008.
3. The ECSEL Joint Undertaking shall be a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012.

4. The ECSEL Joint Undertaking shall have legal personality. In all Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those Member States. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
5. The seat of the ECSEL Joint Undertaking shall be located in Brussels, Belgium.
6. The Statutes of the ECSEL Joint Undertaking ('the Statutes') are set out in the Annex.

Article 2

Objectives and scope

1. The ECSEL Joint Undertaking shall have the following objectives:
 - (a) to contribute to the implementation of Regulation (EU) No 1291/2013, and in particular part II of Decision 2013/743/EU;
 - (b) to contribute to the development of a strong and globally competitive electronics components and systems industry in the Union;
 - (c) to ensure the availability of electronic components and systems for key markets and for addressing societal challenges, aiming at keeping Europe at the forefront of technology development, bridging the gap between research and exploitation, strengthening innovation capabilities and creating economic and employment growth in the Union;
 - (d) to align strategies with Member States to attract private investment and contribute to the effectiveness of public support by avoiding an unnecessary duplication and fragmentation of efforts and by facilitating the participation of actors involved in research and innovation;
 - (e) to maintain and grow semiconductor and smart system manufacturing capability in Europe, including leadership in manufacturing equipment and materials processing;
 - (f) to secure and strengthen a commanding position in design and systems engineering including embedded technologies;
 - (g) to provide access of all stakeholders to a world-class infrastructure for the design and manufacture of electronic components and embedded/cyber-physical and smart systems; and
 - (h) to build a dynamic ecosystem involving Small and Medium-Sized Enterprises (SMEs), thereby strengthening existing clusters and nurturing the creation of new clusters in promising new areas.
2. The scope of work for the ECSEL Joint Undertaking shall be built on the results obtained by the ENIAC and ARTEMIS Joint Undertakings, by the European Technology Platform EPoSS, and by work funded through other national and European programmes. It will foster in a proper and balanced way new developments in, and synergies between, the following main areas:
 - (a) design technologies, process and integration, equipment, materials and manufacturing for micro- and nanoelectronics while targeting miniaturisation, diversification and differentiation, heterogeneous integration;

- (b) processes, methods, tools and platforms, reference designs and architectures, for software and/or control-intensive embedded/cyber-physical systems, addressing seamless connectivity and interoperability, functional safety, high availability, and security for professional and consumer type applications, and connected services; and
- (c) multi-disciplinary approaches for smart systems, supported by developments in holistic design and advanced manufacturing to realise self-reliant and adaptable smart systems having sophisticated interfaces and offering complex functionalities based on, for example, the seamless integration of sensing, actuating, processing, energy provision and networking.

Article 3

Union's financial contribution

1. The Union financial contribution to the ECSEL Joint Undertaking, including EFTA appropriations, to cover administrative costs and operational costs shall be up to EUR 1 184 874 000. The Union's financial contribution shall be paid from the appropriations in the general budget of the Union allocated to Specific Programme, implementing Horizon 2020 (2014-2020), established by Decision 743/2013/EU. The budget implementation as regards the Union's financial contribution shall be entrusted to the ECSEL Joint Undertaking acting as a body referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 in accordance with point (c)(iv) of Article 58(1), Articles 60 and 61 of that Regulation.
2. The arrangements for the Union's financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the ECSEL Joint Undertaking.
3. The delegation agreement referred to in paragraph 2 of this Article shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Delegated Regulation (EU) No 1268/2012 as well as, inter alia, the following:
 - (a) the requirements for the ECSEL Joint Undertaking's contribution concerning the relevant performance indicators referred to in Annex II to Decision 2013/743/EU;
 - (b) the requirements for the ECSEL Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision 2013/743/EU;
 - (c) the specific performance indicators related to the functioning of the ECSEL Joint Undertaking;
 - (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations as referred to in Article 28 of Regulation (EU) No 1291/2013, including on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
 - (e) provisions for the publication of calls for proposals of the ECSEL Joint Undertaking also on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
 - (f) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

Article 4

Contributions of members other than the Union

1. The ECSEL Participating States shall make a financial contribution to the operational costs of the ECSEL Joint Undertaking that is commensurate with the Union's financial contribution. The amount of at least EUR 1 170 000 000 over the period referred to in Article 1 is envisaged.

2. The private members of the ECSEL Joint Undertaking shall make or arrange for their constituent entities and affiliated entities to make contributions to the ECSEL Joint Undertaking. The amount of at least EUR 1 657 500 000 over the period referred to in Article 1 is envisaged.

3. The contributions referred to in paragraphs 1 and 2 of this Article shall consist of contributions to the ECSEL Joint Undertaking as set out in Article 16(2), point (b) of Article 16(3) and point (c) of Article 16(3) of the Statutes.

4. The Members of the ECSEL Joint Undertaking other than the Union shall report by 31 January each year to the Governing Board on the value of the contributions referred to in paragraphs 1 and 2 made in each of the previous financial years.

5. For the purpose of valuing the contributions referred to in point (c) of Article 16(3) of the Statutes, the costs shall be determined in accordance with the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where the entity is established, and to the applicable International Accounting Standards and International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation method may be verified by the ECSEL Joint Undertaking, should there be any uncertainty arising from the certification. In case of remaining uncertainties, it may be audited by the ECSEL Joint Undertaking.

6. The Commission may engage in remedial actions and possibly terminate, proportionally reduce or suspend the Union's financial contribution to the ECSEL Joint Undertaking or trigger the winding-up procedure referred to in Article 26(2) of the Statutes if members other than the Union, including their constituent entities and affiliated entities, do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraphs 1 and 2 of this Article.

Article 5

Financial rules

Without prejudice to Article 12 of this Regulation, the ECSEL Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014 ⁽¹⁾.

Article 6

Staff

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽²⁾ ('Staff Regulations' and 'Conditions of Employment') and the rules adopted jointly by the institutions of the Union for the purpose of applying the Staff Regulations and Conditions of Employment shall apply to the staff of the ECSEL Joint Undertaking.

2. The Governing Board shall exercise, with respect to the staff of the ECSEL Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment on the Authority empowered to conclude contracts ('the appointing authority powers').

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation may be suspended. The Executive Director shall be authorised to sub-delegate those powers.

⁽¹⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

Where exceptional circumstances so require, the Governing Board may by decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and any subsequent sub-delegation of those powers by the latter. In such cases the Governing Board shall exercise the appointing authority powers itself or shall delegate them to one of its members or to a staff member of the ECSEL Joint Undertaking other than the Executive Director.

3. The Governing Board shall adopt appropriate implementing rules giving effect to the Staff Regulations and the Conditions of Employment in accordance with Article 110 of the Staff Regulations.
4. The staff resources shall be set out in the staff establishment plan of the ECSEL Joint Undertaking, indicating the number of temporary posts by function group and by grade, as well as by the number of contract staff expressed in full-time equivalents, in accordance with its annual budget.
5. The staff of the ECSEL Joint Undertaking shall consist of temporary staff and contract staff.
6. All costs related to staff shall be borne by the ECSEL Joint Undertaking.

Article 7

Seconded national experts and trainees

1. The ECSEL Joint Undertaking may make use of seconded national experts and trainees not employed by the ECSEL Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to the information on staff resources as referred to in Article 6(4) in accordance with the annual budget.
2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the ECSEL Joint Undertaking and on the use of trainees.

Article 8

Privileges and Immunities

The Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and TFEU, shall apply to the ECSEL Joint Undertaking and its staff.

Article 9

Liability of the ECSEL Joint Undertaking

1. The contractual liability of the ECSEL Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.
2. In the event of non-contractual liability, the ECSEL Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the ECSEL Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in that connection shall be considered as expenditure of the ECSEL Joint Undertaking and shall be covered by its resources.
4. The ECSEL Joint Undertaking shall be solely responsible for meeting its obligations.

*Article 10***Jurisdiction of the Court of Justice of the European Union and applicable law**

1. The Court of Justice of the European Union shall have jurisdiction:
 - (a) pursuant to any arbitration clause contained in agreements and contracts concluded by the ECSEL Joint Undertaking, or in its decisions;
 - (b) in disputes relating to compensation for damage caused by the staff of the ECSEL Joint Undertaking in the performance of their duties;
 - (c) in any dispute between the ECSEL Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations and the Conditions of Employment.
2. Regarding any matter involving an Associated Country, the specific provisions of the relevant agreements shall apply.
3. Regarding any matter not covered by this Regulation or by other Union legal acts, the law of the State where the seat of the ECSEL Joint Undertaking is located shall apply.

*Article 11***Evaluation**

1. By 30 June 2017 the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the ECSEL Joint Undertaking, which shall assess in particular the level of participation in, and contribution to, the indirect actions both by the private members and their constituent entities and affiliated entities, and also by other legal entities. The Commission shall prepare a report on that evaluation which includes conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The results of the interim evaluation of the ECSEL Joint Undertaking shall be taken into account in the in-depth assessment and in the interim evaluation referred to in Article 32 of Regulation (EU) No 1291/2013.
2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1 of this Article, the Commission may act in accordance with Article 4(6) or take any other appropriate action.
3. Within six months after the winding-up of the ECSEL Joint Undertaking, but no later than two years after the triggering of the winding-up procedure referred to in Article 26 of the Statutes, the Commission shall conduct a final evaluation of the ECSEL Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

*Article 12***Discharge**

By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, the discharge for the implementation of the budget of the ECSEL Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council in accordance with the procedure provided for in the financial rules of the ECSEL Joint Undertaking.

*Article 13***Ex-post audits**

1. Ex-post audits of expenditure on indirect actions shall be carried out by the ECSEL Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of Horizon 2020 indirect actions.

2. The Commission may decide to carry out itself the audits referred to in paragraph 1 of this Article. In such cases, it shall do so in accordance with the applicable rules, in particular Regulations (EU, Euratom) No 966/2012, (EU) No 1290/2013 and (EU) No 1291/2013.

Article 14

Protection of the Union's financial interests

1. The ECSEL Joint Undertaking shall grant Commission staff and other persons authorised by the ECSEL Joint Undertaking or the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.

2. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the Union's financial interests in connection with an agreement, decision or contract funded under this Regulation.

3. Without prejudice to paragraphs 1 and 2, agreements, decisions and contracts resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the ECSEL Joint Undertaking, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

4. The ECSEL Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.

5. The ECSEL Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by the European Anti-Fraud Office (OLAF) ⁽³⁾. The ECSEL Joint Undertaking shall adopt the necessary measures to facilitate internal investigations conducted by OLAF.

Article 15

Confidentiality

Without prejudice to Article 16, the ECSEL Joint Undertaking shall ensure the protection of sensitive information the disclosure of which could damage the interests of its members or of participants in the activities of the ECSEL Joint Undertaking.

Article 16

Transparency

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽⁴⁾ shall apply to documents held by the ECSEL Joint Undertaking.

2. The ECSEL Joint Undertaking's Governing Board may adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

⁽⁴⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

3. Without prejudice to Article 10 of this Regulation, decisions taken by the ECSEL Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 TFEU.

Article 17

Rules for participation and dissemination

1. Regulation (EU) No 1290/2013 shall apply to the actions funded by the ECSEL Joint Undertaking. In accordance with that Regulation, the ECSEL Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in point (a) of Article 1 of the Statutes.

2. Specific criteria regarding the eligibility of individual applicants to receive funding from ECSEL Participating States may be determined by the relevant funding authorities. Such criteria could cover, inter alia, the applicant type, including legal status and purpose, conditions of liability and viability, including financial soundness, and the fulfilment of fiscal and social obligations.

3. When an ECSEL Participating State does not entrust the ECSEL Joint Undertaking with the implementation of its contributions to the participants in indirect actions through the grant agreements with participants concluded by the ECSEL Joint Undertaking, it may determine specific rules regarding the eligibility of costs for the funding of participants.

4. The specific criteria and rules referred to in this Article shall be included in the work plan.

Article 18

Support from the host state

An administrative agreement may be concluded between the ECSEL Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the ECSEL Joint Undertaking.

Article 19

Repeal and transitional provisions

1. Regulation (EC) No 72/2008 and Regulation (EC) No 74/2008 are thereby repealed.

2. Without prejudice to paragraph 1, actions initiated under Regulations (EC) No 72/2008 and (EC) No 74/2008, including annual implementation plans adopted under those Regulations, shall continue to be governed by those Regulations until their completion.

3. In addition to the contributions referred to in Article 3(1) and Article 4(2) of this Regulation, the following contributions to the administrative costs of the ECSEL Joint Undertaking shall be paid over the period 2014-2017 for the completion of the actions launched under Regulations (EC) No, 72/2008 and (EC) No 74/2008:

(a) EUR 2 050 000 by the Union;

(b) EUR 1 430 000 by the AENEAS Association;

(c) EUR 975 000 by the ARTEMISIA Association.

The interim evaluation referred to in Article 11(1) of this Regulation shall include a final evaluation of the ENIAC and ARTEMIS Joint Undertakings under Regulations (EC) No 72/2008 and (EC) No 74/2008.

4. The Executive Director appointed on the basis of Regulation (EC) No 72/2008 shall, for the remaining period of the term of office, be assigned to the functions of the Executive Director of the ECSEL Joint Undertaking as provided for in this Regulation with effect from 27 June 2014. The other conditions of the Executive Director's contract shall remain unchanged.
5. If the Executive Director appointed in accordance with paragraph 4 of this Article was in his/her first term of office, he/she shall be appointed for the remaining period of that term of office with the possibility to extend the term of office up to 4 years in accordance with Article 8(4) of the Statutes. If the Executive Director appointed in accordance with paragraph 4 was in his/her second term of office, that term of office cannot be extended. The Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period of his/her term of office.
6. The contract of employment of the Executive Director appointed on the basis of Regulation (EC) No 74/2008 shall be terminated before 27 June 2014.
7. Without prejudice to paragraphs 4 and 5, this Regulation shall not affect the rights and obligations of staff engaged under Regulations (EC) No 72/2008 and (EC) No 74/2008. Their contracts may be renewed under this Regulation in accordance with the Staff Regulations and the Conditions of Employment and in accordance with the budgetary constraints of the ECSEL Joint Undertaking.
8. The Executive Director of the ECSEL Joint Undertaking shall convene the first meeting of the Governing Board and of the Public Authorities Board.
9. Unless otherwise agreed between members of the ENIAC Joint Undertaking and of the ARTEMIS Joint Undertaking pursuant to Regulations (EC) No 72/2008 and (EC) No 74/2008, all rights and obligations, including assets, debts or liabilities of the members of the Joint Undertakings pursuant to those Regulations shall be transferred to the members of the ECSEL Joint Undertaking pursuant to this Regulation.
10. Any unused appropriations under Regulations (EC) No 72/2008 and (EC) No 74/2008 shall be transferred to the ECSEL Joint Undertaking. Any amount due by the AENEAS Association and the ARTEMISIA Association for the administrative appropriations of the ENIAC and ARTEMIS Joint Undertakings over the period 2008-2013 shall be transferred to the ECSEL Joint Undertaking in accordance with arrangements to be agreed with the Commission.

Article 20

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 May 2014.

For the Council
The President
G. STOURNARAS

ANNEX

STATUTES OF THE ECSEL JOINT UNDERTAKING

Article 1

Tasks

The ECSEL Joint Undertaking shall carry out the following tasks:

- (a) support financially research and innovation indirect actions, mainly in the form of grants;
- (b) ensure sustainable management of the ECSEL Joint Undertaking;
- (c) develop close cooperation and ensure coordination with European (in particular Horizon 2020), national and trans-national activities, bodies and stakeholders, aiming at fostering a fertile innovation environment in Europe, creating synergies and improving exploitation of research and innovation results in the area of electronic components and systems;
- (d) define and make any necessary adjustments to the multiannual strategic plan;
- (e) draw up and implement work plans for executing the multiannual strategic plan;
- (f) initiate open calls for proposals, evaluate proposals, and award funding to indirect actions through open and transparent procedures within the limits of available funds;
- (g) publish information on the indirect actions;
- (h) monitor the implementation of the indirect actions and manage the grant agreements or decisions;
- (i) monitor overall progress towards achieving the objectives of the ECSEL Joint Undertaking;
- (j) engage in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (k) liaise with a broad range of stakeholders, including research organisations and universities;
- (l) any other task needed to achieve the objectives set out in Article 2 of this Regulation.

Article 2

Members

1. The members of the ECSEL Joint Undertaking shall be:

- (a) the Union, represented by the Commission,
- (b) Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden and the United Kingdom, and

(c) upon acceptance of these Statutes by means of a letter of endorsement, the AENEAS Association, an association registered under French law with its registered office in Paris (France); the ARTEMISIA Association, an association registered under Dutch law with its registered office in Eindhoven (the Netherlands); the EPoSS Association, an association registered under German law with its registered office in Berlin (Germany).

2. The countries that are members of the ECSEL Joint Undertaking are referred to in these Statutes as the 'ECSEL Participating States'. Each ECSEL Participating State shall appoint its representatives in the bodies of the ECSEL Joint Undertaking and shall designate the national entity or entities responsible for fulfilling its obligations with respect to the activities of the ECSEL Joint Undertaking.

3. In these Statutes, the ECSEL Participating States together with the Commission are referred to as the 'public authorities' of the ECSEL Joint Undertaking.

4. In these Statutes, the private associations are referred to as the 'private members' of the ECSEL Joint Undertaking, and 'the entities that constitute each private member, as defined in that private member's statutes, are referred to as the 'constituent entities'.

Article 3

Changes to membership

1. Member States or Associated Countries that are not listed in point (b) of Article 2(1) shall become members of the ECSEL Joint Undertaking upon notification to the Governing Board of their written acceptance of these Statutes and of any other provisions governing the functioning of the ECSEL Joint Undertaking.

2. Provided that they contribute to the financing referred to in Article 16(4) to achieve the objectives of the ECSEL Joint Undertaking set out in Article 2 of this Regulation and that they accept these Statutes, the following entities may apply to become a member of the ECSEL Joint Undertaking:

(a) any country other than those referred to in paragraph 1 pursuing research and innovation policies or programmes in the area of electronic components and systems;

(b) any other legal entity that directly or indirectly supports research and innovation in a Member State or in an Associated Country.

3. Any application for membership of the ECSEL Joint Undertaking made in accordance with paragraph 2 shall be addressed to the Governing Board of the ECSEL Joint Undertaking. It shall assess the application, taking into account the relevance and the potential added value of the applicant as regards the achievement of the objectives of the ECSEL Joint Undertaking and shall decide on the application.

4. Any member may terminate its membership of the ECSEL Joint Undertaking. Such termination shall become effective and irrevocable six months after notification to the other members. As from the date of termination, the former member shall be discharged from any obligations other than those approved or incurred by the ECSEL Joint Undertaking prior to the notification of termination of the membership.

5. Membership of the ECSEL Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.

6. Upon any change to membership pursuant to this Article, the ECSEL Joint Undertaking shall immediately publish on its website an updated list of members together with the date of such change.

*Article 4***Bodies of the ECSEL Joint Undertaking**

The bodies of the ECSEL Joint Undertaking shall be:

- (a) the Governing Board;
- (b) the Executive Director;
- (c) the Public Authorities Board;
- (d) the Private Members Board.

*Article 5***Composition of the Governing Board**

The Governing Board shall be composed of representatives of the members of the ECSEL Joint Undertaking.

Each member of the ECSEL Joint Undertaking shall appoint its representatives and a lead delegate who shall hold the voting rights of the member in the Governing Board.

*Article 6***Functioning of the Governing Board**

1. The voting rights in the Governing Board shall be distributed as follows:

- (a) 1/3 for the private members collectively;
- (b) 1/3 for the Commission; and
- (c) 1/3 for the ECSEL Participating States collectively.

The members shall make every effort to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75 % of all votes, including the votes of the members who are absent.

2. For the first two financial years, the voting rights of the ECSEL Participating States shall be distributed as follows:

- (a) one per cent for each ECSEL Participating State;
- (b) the remaining percentage distributed annually among the ECSEL Participating States in proportion to their actual financial contributions over the past two years, including their contributions to the ENIAC and ARTEMIS Joint Undertakings.

For the subsequent financial years, the distribution of the voting rights of the ECSEL Participating States shall be established annually and in proportion to the funds they have committed to indirect actions over the past two financial years.

The voting rights of the private members shall be distributed equally amongst the private associations unless decided otherwise by the Private Members Board.

Voting rights for any new member of the ECSEL Joint Undertaking that is not a Member State or an Associated Country shall be determined by the Governing Board before that member joins the ECSEL Joint Undertaking.

3. The Governing Board shall elect a chairperson for a period of at least one year.
4. The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission, of a majority of the representatives of the ECSEL Participating States, of a majority of the private members, at the request of the chairperson, or at the request of the Executive Director in accordance with Article 16(5). The meetings of the Governing Board shall be convened by its chairperson and shall usually take place at the seat of the ECSEL Joint Undertaking.

The quorum of the Governing Board shall be constituted by the Commission, the private members and at least three ECSEL Participating States' lead delegates.

The Executive Director shall take part in the deliberations, unless decided otherwise by the Governing Board, but shall have no voting rights.

The Governing Board may invite, on a case-by-case basis, other persons to attend its meetings as observers, in particular representatives of regional authorities within the Union.

5. The representatives of the members of the ECSEL Joint Undertaking shall not be personally liable for actions carried out in their capacity as representatives on the Governing Board.
6. The Governing Board shall adopt its own rules of procedure.

Article 7

Tasks of the Governing Board

1. The Governing Board shall have overall responsibility for the strategic orientation and the operations of the ECSEL Joint Undertaking and shall supervise the implementation of its activities.
2. The Commission, in its role on the Governing Board, shall seek to ensure coordination between the activities of the ECSEL Joint Undertaking and the relevant activities of Horizon 2020 with a view to promoting synergies when identifying priorities covered by collaborative research.
3. The Governing Board shall in, particular, carry out the following tasks:
 - (a) assess, accept or reject applications for a membership in accordance with Article 3(3) of these Statutes;
 - (b) decide on the termination of membership in the ECSEL Joint Undertaking of any member that does not fulfil its obligations;
 - (c) adopt the financial rules of the ECSEL Joint Undertaking in accordance with Article 5 of this Regulation;
 - (d) adopt the annual budget of the ECSEL Joint Undertaking, including the corresponding staff establishment plan indicating the number of temporary posts by function group and by grade, the number of contract staff and seconded national experts expressed in full-time equivalents;
 - (e) exercise the appointing authority powers with respect to staff, in accordance with Article 6(2) of this Regulation;

- (f) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
- (g) approve the organisational structure of the Programme Office upon recommendation of the Executive Director;
- (h) adopt the multiannual strategic plan referred to in Article 21(1);
- (i) adopt the work plan and the corresponding expenditure estimates referred to in Article 21(2);
- (j) approve the annual activity report, including the corresponding expenditure referred to in Article 22(1);
- (k) arrange as appropriate, for the establishment of an internal audit capability of the ECSEL Joint Undertaking upon recommendation by the Executive Director;
- (l) establish the ECSEL Joint Undertaking's communications policy upon recommendation by the Executive Director;
- (m) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 6(3) of this Regulation;
- (n) where appropriate, lay down rules on the secondment of national experts to the ECSEL Joint Undertaking and on the use of trainees in accordance with Article 7(2) of this Regulation;
- (o) where appropriate, set up advisory groups in addition to the bodies of the ECSEL Joint Undertaking;
- (p) where appropriate, submit to the Commission a request to amend this Regulation proposed by a member of the ECSEL Joint Undertaking;
- (q) be responsible for any task that is not specifically allocated to a particular body of the ECSEL Joint Undertaking; it may assign such tasks to any body of the ECSEL Joint Undertaking.

Article 8

Appointment, dismissal or extension of the term of office of the Executive Director

1. The Executive Director shall be appointed by the Governing Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The Commission shall associate the representation from the other members of the ECSEL Joint Undertaking in the selection procedure, as appropriate.

In particular, an appropriate representation from the other members of the ECSEL Joint Undertaking shall be ensured at the pre-selection stage of the selection procedure. For that purpose, the ECSEL Participating States and the private members shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

2. The Executive Director shall be a member of staff and shall be engaged as a temporary agent of the ECSEL Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract of the Executive Director, the ECSEL Joint Undertaking shall be represented by the chairperson of the Governing Board.

3. The term of office of the Executive Director shall be three years. By the end of that period, the Commission, associating the ECSEL Participating States and the private members as appropriate, shall undertake an assessment of the performance of the Executive Director and the ECSEL Joint Undertaking's future tasks and challenges.
4. The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than four years.
5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
6. The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the ECSEL Participating States and the private members as appropriate.

Article 9

Tasks of the Executive Director

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the ECSEL Joint Undertaking in accordance with the decisions of the Governing Board.
2. The Executive Director shall be the legal representative of the ECSEL Joint Undertaking. The Executive Director shall be accountable to the Governing Board.
3. The Executive Director shall implement the budget of the ECSEL Joint Undertaking.
4. The Executive Director shall, in particular, carry out the following tasks in an independent manner:
 - (a) consolidate and submit for adoption to the Governing Board the draft multiannual strategic plan composed of the multiannual strategic research and innovation agenda as proposed by the Private Members Board and the multiannual financial perspectives from the public authorities;
 - (b) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;
 - (c) prepare and submit for adoption to the Governing Board the draft work plan including the scope of the calls for proposals needed to implement the research and innovation activities plan as proposed by the Private Members Board and the corresponding expenditure estimates as proposed by the public authorities;
 - (d) submit for opinion to the Governing Board the annual accounts;
 - (e) prepare and submit for approval to the Governing Board the annual activity report, including the information on corresponding expenditure;
 - (f) sign individual grant agreements and decisions;
 - (g) sign procurement contracts;
 - (h) implement the ECSEL Joint Undertaking's communication policy;

- (i) organise, direct and supervise the operations and the staff of the ECSEL Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
- (j) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
- (k) ensure that risk assessment and risk management are performed;
- (l) take any other measures needed to assess the progress of the ECSEL Joint Undertaking towards its objectives as set out in Article 2 of this Regulation;
- (m) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.

5. The Executive Director shall set up a Programme Office for the execution, under his or her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the ECSEL Joint Undertaking and shall in particular carry out the following tasks:

- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules of the ECSEL Joint Undertaking;
- (b) manage the calls for proposals as provided for in the work plan and administer the grant agreements and decisions;
- (c) provide the members and the other bodies of the ECSEL Joint Undertaking with all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
- (d) act as the secretariat of the bodies of the ECSEL Joint Undertaking and provide support to advisory groups set up by the Governing Board.

Article 10

Composition of the Public Authorities Board

The Public Authorities Board shall be composed of representatives of the public authorities of the ECSEL Joint Undertaking.

Each public authority shall appoint its representatives and a lead delegate who shall hold the voting rights in the Public Authorities Board.

Article 11

Functioning of the Public Authorities Board

1. The voting rights in the Public Authorities Board shall be assigned to the public authorities on an annual basis in proportion to their financial contribution to the activities of the ECSEL Joint Undertaking for that year in accordance with Article 18(4), and with an upper limit for any given member of 50 % of the total voting rights in the Public Authorities Board.

If fewer than three ECSEL Participating States have communicated to the Executive Director their financial contribution according to Article 18(4), the Commission shall hold 50 % of the voting rights and the remaining 50 % shall be distributed equally amongst the ECSEL Participating States.

The public authorities shall make every effort to achieve consensus. Failing consensus, the Public Authorities Board shall take its decisions by a majority of at least 75 % of all votes, including the votes of the ECSEL Participating States that are not in attendance.

Each public authority shall have a right of veto on all issues concerning the use of its own contribution to the ECSEL Joint Undertaking.

2. The Public Authorities Board shall elect its chairperson for a period of at least two years.

3. The Public Authorities Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission or of a majority of the representatives of the ECSEL Participating States, or at the request of the chairperson. The meetings of the Public Authorities Board shall be convened by its chairperson and shall normally take place at the seat of the ECSEL Joint Undertaking.

The quorum of the Public Authorities Board shall be constituted by the Commission and at least three ECSEL Participating States' lead delegates.

The Executive Director shall take part in the deliberations, unless decided otherwise by the Public Authorities Board, but shall have no voting rights.

Any Member State or Associated Country that is not a member of the ECSEL Joint Undertaking may participate in the Public Authorities Board as an observer. Observers shall receive all relevant documents and may give advice on any decision taken by the Public Authorities Board. All such observers will be bound by the confidentiality rules applying to the Public Authorities Board members.

The Public Authorities Board may appoint working groups where necessary under the overall coordination of one or more public authorities.

The Public Authorities Board shall adopt its own rules of procedure.

Article 12

Tasks of the Public Authorities Board

The Public Authorities Board shall:

- (a) ensure that the principles of fairness and transparency are properly applied in the allocation of public funding to participants in indirect actions;
- (b) approve the rules of procedure for calls for proposals, and for the evaluation, selection and monitoring of indirect actions;
- (c) approve the launch of calls for proposals, in accordance with the work plan;
- (d) rank proposals on the basis of the selection and award criteria, and taking into consideration their contribution towards the achievement of the objectives of the call and synergy with national priorities;
- (e) decide on the allocation of public funding to selected proposals up to the limit of the budgets available, taking into account the verifications carried out in accordance with Article 18(5). Such decision shall be binding on the ECSEL Participating States without any further evaluation or selection processes.

*Article 13***Composition of the Private Members Board**

The Private Members Board shall be composed of representatives of the private members of the ECSEL Joint Undertaking.

Each private member shall appoint its representatives and a lead delegate who shall hold the voting rights in the Private Members Board.

*Article 14***Functioning of the Private Members Board**

1. The Private Members Board shall meet at least twice a year.
2. The Private Members Board may appoint working groups where necessary under the overall coordination of one or more members.
3. The Private Members Board shall elect its chairperson.
4. The Private Members Board shall adopt its rules of procedure.

*Article 15***Tasks of the Private Members Board**

The Private Members Board shall:

- (a) draw up and regularly update the draft multiannual strategic research and innovation agenda referred to in Article 21(1) for achieving the objectives of the ECSEL Joint Undertaking set out in Article 2 of this Regulation;
- (b) prepare each year the draft research and innovation activities plan for the next year, as a basis for the calls for proposals referred to in Article 21(2);
- (c) submit to the Executive Director the draft multiannual strategic research and innovation agenda and the yearly draft research and innovation activities plan within the deadlines set by the Governing Board;
- (d) organise an advisory stakeholder forum that is open to all public and private stakeholders having an interest in the field of electronic components and systems, to inform them about and collect feedback on the draft multiannual strategic research and innovation agenda and draft research and innovation activities plan for a given year.

*Article 16***Sources of financing**

1. The ECSEL Joint Undertaking shall be jointly funded by its members through financial contributions paid in instalments and in kind contributions consisting of the costs incurred by the private members or their constituent entities and affiliated entities in implementing indirect actions that are not reimbursed by the ECSEL Joint Undertaking.
2. The administrative costs of the ECSEL Joint Undertaking shall be covered by means of the financial contributions referred to in:
 - (a) Article 3(1) of this Regulation for the Union's financial contribution up to EUR 15 255 000;

- (b) Article 4(2) of this Regulation for the contribution by the private members up to EUR 19 710 000 or 1 % of the sum of the total cost of all projects, whichever figure is higher, but not exceeding EUR 48 000 000; and
- (c) Article 19(2) of this Regulation for the completion of the actions launched under Regulations (EC) No 72/2008 and (EC) No 74/2008.

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

3. The operational costs of the ECSEL Joint Undertaking shall be covered by means of:

- (a) the Union's financial contribution;
- (b) financial contributions from ECSEL Participating States;
- (c) in kind contributions by the private members or their constituent entities and affiliated entities consisting of the costs incurred by them in implementing indirect actions less the contributions by the ECSEL Joint Undertaking, the ECSEL Participating States and any other Union contribution to those costs.

4. The resources of the ECSEL Joint Undertaking entered in its budget shall be composed of the following contributions:

- (a) members' financial contributions to the administrative costs;
- (b) members' financial contributions to the operational costs, including those from the ECSEL Participating States which entrust the ECSEL Joint Undertaking in accordance with Article 17(1);
- (c) any revenue generated by the ECSEL Joint Undertaking;
- (d) any other financial contributions, resources and revenues.

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

5. Should any member of the ECSEL Joint Undertaking be in default of its commitments concerning its agreed financial contribution, the Executive Director shall put this in writing and shall set a reasonable period within which such default shall be remedied. If the situation is not remedied within that period, the Executive Director shall convene a meeting of the Governing Board to decide whether the defaulting member's membership is to be revoked or whether if any other measures are to be taken until its obligations have been met.

6. The resources and activities of the ECSEL Joint Undertaking shall be intended for the achievement of the objectives set out in Article 2 of this Regulation.

7. The ECSEL Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives set out in Article 2 of this Regulation.

8. Except when the ECSEL Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the members of the ECSEL Joint Undertaking.

*Article 17***ECSEL Participating States contributions**

1. The ECSEL Participating States may entrust the ECSEL Joint Undertaking with the implementation of their contributions to the participants in indirect actions through the grant agreements with participants concluded by the ECSEL Joint Undertaking. They may also entrust the ECSEL Joint Undertaking with the payment of their contributions to the participants or make the payments by themselves based on the verifications made by the ECSEL Joint Undertaking.
2. Where an ECSEL Participating State does not entrust the ECSEL Joint Undertaking as described in paragraph 1, it shall take all necessary measures to establish its own grant agreements within a similar timeframe as the ECSEL Joint Undertaking grant agreements. The verification of the eligibility of costs performed by the ECSEL Joint Undertaking as referred to in Article 18(7) may be used by the ECSEL Participating State as part of its own payment process.
3. The arrangements for the cooperation between the ECSEL Participating States and the ECSEL Joint Undertaking shall be established by means of an administrative arrangement to be concluded between the entities designated by the ECSEL Participating States for that purpose and the ECSEL Joint Undertaking.
4. When ECSEL Participating States entrust the ECSEL Joint Undertaking in accordance with paragraph 1, the administrative arrangements referred to in paragraph 3 shall be supplemented with annual arrangements between the entities designated by the ECSEL Participating States for that purpose and the ECSEL Joint Undertaking, laying down the terms and conditions for the financial contribution of the ECSEL Participating States to the ECSEL Joint Undertaking.
5. Member States, Associated Countries and third countries that are not members of the ECSEL Joint Undertaking may conclude similar arrangements with the ECSEL Joint Undertaking.

*Article 18***Funding of indirect actions**

1. The ECSEL Joint Undertaking shall support indirect actions through open and competitive calls for proposals, and allocations of public funding within the limits of the budgets available. Any public support under the ECSEL Joint Undertaking is without prejudice to State aid rules.
2. The financial contribution from the public authorities shall be that referred to in point (a) of Article 16(3) and point (b) of Article 16(3) disbursed as a reimbursement of eligible costs to the participants in indirect actions. The specific reimbursement rates by the Union and by each ECSEL Participating State shall be included in the work plan.
3. The public authorities shall communicate to the Executive Director their financial commitments reserved for each call for proposals to be included in the work plan and where applicable in accordance with Article 17(1) in time for the preparation of the draft budget of the ECSEL Joint Undertaking, taking into account the scope of the research and innovation activities addressed in the work plan.
4. The Executive Director shall verify the eligibility of applicants for funding from the Union and the ECSEL Participating States shall verify the eligibility of their applicants against any predetermined national criteria for funding and shall communicate the results to the Executive Director.
5. On the basis of the verifications provided in paragraph 4, the Executive Director shall establish the proposed list of indirect actions to be retained for funding, detailed by the applicants, and shall communicate it to the Public Authorities Board which shall decide on the maximum allocation of public funding in accordance with point (e) of Article 12 and mandate the Executive Director to establish agreements with the corresponding participants.

6. The ECSEL Joint Undertaking shall take all necessary measures, including the verification of the eligibility of costs, for the disbursement of the public funding to the respective participants in accordance with the arrangements referred to in Article 17(3) and (4).
7. The ECSEL Participating States shall not require additional technical monitoring and reporting other than those required by the ECSEL Joint Undertaking.

Article 19

Financial commitments

The financial commitments of the ECSEL Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its members.

Article 20

Financial year

The financial year shall run from 1 January to 31 December.

Article 21

Operational and financial planning

1. The multiannual strategic plan shall specify the strategy and plans for achieving the objectives of the ECSEL Joint Undertaking set out in Article 2 of this Regulation in the form of a multiannual strategic research and innovation agenda from the Private Members Board and multiannual financial perspectives from the public authorities. It should identify research and innovation priorities for the development and adoption of key competences for electronic components and systems across different application areas in order to strengthen European competitiveness and help create new markets and societal applications. It should be reviewed regularly in accordance with the evolution of the industrial needs in Europe.
2. The Executive Director shall submit to the Governing Board for adoption a draft annual or multiannual work plan which shall include the research and innovation activities plan, the administrative activities and the corresponding expenditure estimates.
3. The work plan shall be adopted by the end of the year prior to its implementation. The work plan shall be made publicly available.
4. The Executive Director shall prepare the draft annual budget for the following year and shall submit it to the Governing Board for adoption.
5. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
6. The annual budget shall be adapted in order to take into account the amount of the Union's financial contribution as set out in the Union budget.

Article 22

Operational and financial reporting

1. The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the ECSEL Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the ECSEL Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
 - (b) the proposals submitted, including a breakdown by participant type, including SMEs, and by country;
 - (c) the proposals selected for funding, with a breakdown by participant type, including SMEs, and by country, and indicating the contributions of the ECSEL Joint Undertaking and the ECSEL Participating States to the individual participants and indirect actions.
2. Once approved by the Governing Board, the annual activity report shall be made publicly available.
 3. By 1 March of the following financial year, the accounting officer of the ECSEL Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and to the Court of Auditors.

By 31 March of the following financial year, the ECSEL Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, to the Council and to the Court of Auditors.

On receipt of the Court of Auditors' observations on the ECSEL Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer of the ECSEL Joint Undertaking shall draw up the ECSEL Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the ECSEL Joint Undertaking's final accounts.

The Executive Director shall, by 1 July of the following financial year, send the final accounts to the European Parliament, to the Council, to the Commission and to the Court of Auditors, together with the Governing Board's opinion.

The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following financial year.

The Executive Director shall provide the Court of Auditors with a reply to observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 165(3) of Regulation (EU, Euratom) No 966/2012.

Article 23

Internal audit

The Commission's internal auditor shall exercise the same powers over the ECSEL Joint Undertaking as those exercised in respect of the Commission.

Article 24

Liability of members and insurance

1. The financial liability of the members of the ECSEL Joint Undertaking for the debts of the ECSEL Joint Undertaking shall be limited to their contributions already made to the administrative costs.
2. The ECSEL Joint Undertaking shall take out and maintain appropriate insurance.

*Article 25***Conflict of interest**

1. The ECSEL Joint Undertaking, its bodies and staff shall avoid any conflict of interest in carrying out their activities.
2. The ECSEL Joint Undertaking Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members, bodies and staff. Those rules shall contain provisions intended to avoid a conflict of interest in respect of the representatives of the members of the ECSEL Joint Undertaking serving on the Governing Board or on the Public Authorities Board.

*Article 26***Winding-up**

1. The ECSEL Joint Undertaking shall be wound up at the end of the period laid down in Article 1 of this Regulation.
 2. In addition to paragraph 1, the winding-up procedure shall be automatically triggered if the Union or all private members withdraw from the ECSEL Joint Undertaking.
 3. For the purpose of conducting the proceedings to wind up the ECSEL Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
 4. When the ECSEL Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding-up. Any surplus shall be distributed among the members at the time of the winding-up in proportion to their financial contribution to the ECSEL Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.
 5. An *ad hoc* procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the ECSEL Joint Undertaking as well as any procurement contract with a duration longer than the duration of the ECSEL Joint Undertaking.
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