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Price: EUR 15

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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

I

(Legislative acts)

REGULATIONS

**REGULATION (EU) No 1285/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

**on the implementation and exploitation of European satellite navigation systems and repealing
Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European
Parliament and of the Council**

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 172 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⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The aim of the European satellite navigation policy is to provide the Union with two satellite navigation systems, the system established under the Galileo programme and the EGNOS system ('the systems'). These systems arise respectively from the Galileo and EGNOS programmes. Each infrastructure consists of satellites and a network of ground stations.

(2) The aim of the Galileo programme is to establish and operate the first global satellite navigation and positioning infrastructure specifically designed for civilian purposes, which can be used by a variety of public and

private actors in Europe and worldwide. The system established under the Galileo programme functions independently of other existing or potential systems, thus contributing amongst other things to the strategic autonomy of the Union, as emphasised by the European Parliament and the Council.

(3) The aim of the EGNOS programme is to improve the quality of open signals from existing global navigation satellite systems ('GNSS') as well as those from the open service offered by the system established under the Galileo programme, when they become available. The services provided by the EGNOS programme should cover, as a priority, the Member States' territories geographically located in Europe, including for this purpose the Azores, the Canary Islands and Madeira.

(4) The European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions have consistently given their full support to the Galileo and EGNOS programmes.

(5) Since the Galileo and EGNOS programmes are at an advanced development stage leading to systems in an exploitation phase, a specific legal instrument is required to meet their needs, particularly in terms of governance and security, to satisfy the requirement for sound financial management and to promote the use of the systems.

(6) The systems are infrastructures set up as trans-European networks of which the use extends well beyond the national boundaries of the Member States. Furthermore, the services offered through these systems contribute to a wide range of economic and social activities, including the development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

⁽¹⁾ OJ C 181, 21.6.2012, p. 179.

- (7) The Galileo and EGNOS programmes are an industrial policy tool and are part of the Europe 2020 strategy, as illustrated by the Commission Communication of 17 November 2010 entitled 'An integrated industrial policy for the globalisation era: putting competitiveness and sustainability at centre stage'. They are also referred to in the Commission Communication of 4 April 2011 entitled 'Towards a space strategy for the European Union that benefits its citizens'. Those programmes provide many advantages for the economy and citizens of the Union, whose cumulative value has been estimated at approximately EUR 130 billion in the period 2014-2034.
- (8) A growing number of economic sectors, in particular transport, telecommunications, agriculture and energy, increasingly use satellite navigation systems. Public authorities can also benefit from these systems in various areas such as emergency services, police, crisis management or border management. Developing the use of satellite navigation brings enormous benefits to the economy, society and the environment. Such socio-economic benefits are broken down into three main categories: direct benefits resulting from the growth of the space market, direct benefits resulting from the growth of the downstream market for GNSS-based applications and services, and indirect benefits resulting from the emergence of new applications in, or technology transfer to, other sectors, leading to new market opportunities in other sectors, productivity gains across industry and public benefits generated by a reduction in pollution or by improved levels of safety and security.
- (9) It is therefore important that the Union support the development of applications and services based on the systems. This will allow the citizens of the Union to reap the benefits derived from the systems, and ensure that public confidence in the Galileo and EGNOS programmes is maintained. The appropriate instrument to finance research and innovation activities relating to the development of GNSS-based applications is Horizon 2020 – the Framework Programme for Research and Innovation ("Horizon 2020") established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council⁽¹⁾. However, a very specific upstream part of research and development activities should be financed from the budget allocated to the Galileo and EGNOS programmes under this Regulation, where such activities concern fundamental elements such as Galileo-enabled chipsets and receivers, which will facilitate the development of applications across different sectors of the economy. Such financing should nevertheless not jeopardise the deployment or exploitation of the infrastructures established under the programmes.
- (10) Given the increasing use of satellite navigation across a great number of fields of activity, an interruption in the supply of services could lead to significant harm to modern society and result in losses for many economic operators. In addition, due to their strategic aspect, satellite navigation systems are sensitive infrastructures, that could be susceptible to malicious use. These factors could affect the security of the Union, its Member States and its citizens. Security requirements should therefore be taken into account in the design, development, deployment and exploitation of the infrastructures established under the Galileo and EGNOS programmes in accordance with standard practices.
- (11) The Galileo programme includes a definition phase which has been completed, a development and validation phase until 2013, a deployment phase which was launched in 2008 and is due for completion in 2020, and an exploitation phase which should be launched progressively from 2014-15 in order to have a fully operational system in 2020. The first four operational satellites have been constructed and launched during the development and validation phase, while the full constellation of satellites should be completed during the deployment phase and replenishment should occur during the exploitation phase. The associated ground-based infrastructure should be developed and operated accordingly.
- (12) The EGNOS programme has been in the exploitation phase since its open service and 'safety of life' service were declared operational in October 2009 and March 2011 respectively. Subject to technical and financial constraints and on the basis of international agreements, the geographical coverage of the services provided by the EGNOS system could be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of countries in the European Neighbourhood Policy. However, such extension to other regions of the world should not be financed by the budgetary appropriations assigned to the Galileo and EGNOS programmes under Council Regulation (EU, Euratom) No 1311/2013⁽²⁾ and should not delay the extension of the coverage throughout the Member States' territories geographically located in Europe.
- (13) The original design of the Galileo safety-of-life service as provided for in Regulation (EC) No 683/2008 of the

⁽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 (See page 104 Of this Official Journal)

⁽²⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (See page 884 Of this Official Journal).

European Parliament and of the Council ⁽¹⁾ has been re-profiled to ensure its interoperability with other GNSS, to respond effectively to safety-of-life user needs and to reduce the complexity, risks and costs of the required infrastructure.

- (14) To maximise the take-up of the EGNOS safety-of-life service, it should be provided without direct user charge. The Galileo public regulated service (PRS) should also be offered free of charge to the following PRS participants, within the meaning of Decision No 1104/2011/EU of the European Parliament and the Council ⁽²⁾: Member States, the Council, the Commission, the European External Action Service ("EEAS") and duly authorised Union agencies. The absence of charges should not be understood to affect the provisions regarding the costs of the functioning of a competent PRS authority as laid down in Decision No 1104/2011/EU.
- (15) In order to optimise the use of the services provided, the systems, networks and services emerging from the Galileo and EGNOS programmes should be compatible and interoperable with one another and, insofar as possible, with other satellite navigation systems and with conventional means of radio navigation where such compatibility and interoperability is laid down in an international agreement, without prejudice to the objective of strategic autonomy.
- (16) Since the Union is responsible, in principle, for financing the Galileo and EGNOS programmes in full, provision should be made for the Union to own all tangible and intangible assets created or developed under those programmes. In order to comply fully with any fundamental rights relating to ownership, the necessary arrangements should be made with existing owners, particularly with respect to essential elements of the infrastructures and their security. It should be understood that the provisions on ownership of intangible assets laid down in this Regulation do not cover intangible rights that are not transferable under relevant national laws. Such ownership by the Union should be without prejudice to the possibility for the Union, in accordance with this Regulation and where it is deemed appropriate on the basis of a case-by-case assessment, to make those assets available to third parties or to dispose of them. In particular, the Union should be able to transfer the ownership of or license the intellectual property rights arising from work under the Galileo and EGNOS programmes to third parties. In order to facilitate the market uptake of satellite navigation, there is a need to ensure that third parties can make optimum use in particular of the intellectual property rights arising

from the Galileo and EGNOS programmes which belong to the Union, including at social and economic level.

- (17) Assets created or developed outside the Galileo and EGNOS programmes are not affected by the provisions on ownership laid down in this Regulation. However, such assets might, on occasion, be relevant to the performance of the programmes. In order to encourage the development of new technology outside the Galileo and EGNOS programmes, the Commission should encourage third parties to draw its attention to relevant intangible assets and should, where it would be beneficial to the programmes, negotiate terms as to the appropriate use thereof.
- (18) The deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme should be entirely financed by the Union. However in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾, the Member States should be able to provide additional funding to the Galileo and EGNOS programmes or a contribution in kind, on the basis of appropriate agreements, in order to fund additional programme elements relating to the potential particular objectives of the Member States concerned. Third countries and international organisations should also be able to contribute to the programmes.
- (19) In order to ensure the continuity and stability of the Galileo and EGNOS programmes and considering their European dimension and their intrinsic European added value, sufficient and consistent funding is required over financial planning periods. It is also necessary to indicate the amount required between 1 January 2014 to 31 December 2020 to finance completion of the deployment phase of the Galileo programme and the exploitation phases of the Galileo and EGNOS programmes.
- (20) Regulation (EU, Euratom) No 1311/2013 allocates a maximum of EUR 7 071,73 million in current prices for the financing of activities relating to the Galileo and EGNOS programmes for the period from 1 January 2014 to 31 December 2020. For the sake of clarity and in order to facilitate cost control, that overall amount should be broken down into various categories. Nonetheless, in the interest of flexibility and to ensure the smooth running of the programmes, the Commission should be able to re-allocate funds from one category to another. The programme activities should also include the protection of the systems and their operation, including during the launch of satellites. In this respect, a contribution to the costs of services capable of providing such protection could be financed by the budget allocated to the Galileo and EGNOS programmes insofar as possible following rigorous cost management

⁽¹⁾ Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo) (OJ L 196, 24.7.2008, p. 1).

⁽²⁾ Decision No 1104/2011/EU of the European Parliament and the Council of 25 October 2011 on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (OJ L 287, 4.11.2011, p. 1).

⁽³⁾ 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 (OJ L 298, 26.10.2012, p. 1).

and full compliance with the maximum amount established in Regulation (EU, Euratom) No 1311/2013. Such contribution should be used only for the provision of data and services and not for the purchase of infrastructure. This Regulation lays down a financial envelope for the continuation of the Galileo and EGNOS programmes which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽¹⁾ for the European Parliament and the Council during the annual budgetary procedure.

- (21) The activities for which the Union budget appropriations assigned to the Galileo and EGNOS programmes for the period 2014-2020 are to be granted should be specified in this Regulation. Such appropriations should be granted mainly for activities relating to the deployment phase of the Galileo programme, including management and monitoring activities for that phase, and activities relating to the exploitation of the system established under the Galileo programme, including actions preceding or in preparation for the exploitation phase of that programme, as well as for activities relating to the exploitation of the EGNOS system. They should also be granted for funding certain other activities required to manage and achieve the objectives of the Galileo and EGNOS programmes, in particular support for research and development of fundamental elements, such as Galileo enabled chipsets and receivers, including as appropriate positioning and integrity-monitoring software modules. Those elements constitute the interface between the services offered by the infrastructures and downstream applications, and facilitate the development of applications throughout various sectors of the economy. Their development acts as a catalyst for the maximisation of socio-economic benefits as it facilitates the market uptake of the services offered. The Commission should report annually to the European Parliament and the Council on the cost-management strategy pursued.
- (22) It is important to note that the investment and operating costs of the systems as estimated for the period 2014-2020 do not take account of unforeseen financial obligations which the Union may be obliged to assume, in particular those relating to liability arising from the performance of the services or Union ownership of the systems, especially with regard to any malfunctioning of the systems. Those obligations are the subject of a specific analysis by the Commission.
- (23) It should also be noted that the budgetary resources planned under this Regulation do not cover work financed by funds allocated to Horizon 2020, such as

that associated with the development of applications derived from the systems. Such work will help to optimise the use of the services provided in the context of the Galileo and EGNOS programmes, to ensure a good social and economic return on the investments made by the Union and to increase the know-how of businesses in the Union with regard to satellite navigation technology. The Commission should ensure that there is transparency and clarity regarding the different sources of funding for the different aspects of the programmes.

- (24) In addition, the revenue generated by the systems arising, in particular, from the commercial service provided by the system established under the Galileo programme, should accrue to the Union in order to partially compensate it for the investments that it has made previously, and that revenue should be used to support the objectives of the Galileo and EGNOS programmes. A revenue-sharing mechanism might also be provided for in contracts concluded with private sector entities.
- (25) In order to avoid the cost over-runs and delays which have affected the progress of the Galileo and EGNOS programmes in the past, efforts need to be stepped up to control risks which might lead to excess costs and/or delays as requested by the European Parliament in its resolution of 8 June 2011 on the mid-term review of the European satellite navigation programmes: implementation assessment, future challenges and financing perspectives⁽²⁾ and by the Council conclusions of 31 March 2011, and as shown by the Commission Communication of 29 June 2011 entitled 'A budget for Europe 2020'.
- (26) Sound public governance of the Galileo and EGNOS programmes requires, first, that there be a strict division of responsibilities and tasks, in particular between the Commission, the European GNSS Agency and the European Space Agency (ESA) and, second, that the governance be progressively adapted to the operational requirements of the systems.
- (27) Given that the Commission represents the Union, which, in principle, provides financing for the Galileo and EGNOS programmes alone and owns the systems, the Commission should be responsible for the progress of those programmes and their overall supervision. It should manage the funds allocated to the programmes under this Regulation, supervise the implementation of all activities of the programmes and ensure a clear division of responsibilities and tasks, in particular between the European GNSS Agency and ESA. Accordingly, in addition to the tasks associated with these general responsibilities and the other tasks incumbent upon it under this Regulation, the Commission should be assigned specific tasks. In order to optimise the

⁽¹⁾ OJ C 420, 20.12.2013, p. 1.

⁽²⁾ OJ C 380 E, 11.12.2012, p. 84.

resources and competences of the various stakeholders, it should be able to delegate certain tasks by means of delegation agreements, in accordance with Regulation (EU, Euratom) No 966/2012.

- (28) Considering the importance for the Galileo and EGNOS programmes of the ground-based infrastructure of the systems and its impact on their security, the determination of the location of the infrastructure should be one of the specific tasks assigned to the Commission. The deployment of the ground-based infrastructure of the systems should continue to follow an open and transparent process. The location of such infrastructure should be determined by taking into account geographical and technical limitations associated with the optimum geographical distribution of the ground-based infrastructure and the possible presence of existing installations and equipment suitable for the relevant tasks, as well as by ensuring compliance with the security needs of each ground station and with the national security requirements of each Member State.
- (29) The European GNSS Agency was set up by Regulation (EU) No 912/2010 of the European Parliament and of the Council ⁽¹⁾ in order to achieve the objectives of the Galileo and EGNOS programmes and implement certain tasks associated with the progress of those programmes. It is an agency of the Union which, as a body within the meaning of Regulation (EU, Euratom) No 966/2012, is subject to the obligations applicable to Union agencies. It should be assigned certain tasks associated with programme security and its potential designation as a competent PRS authority. It should also contribute to the promotion and marketing of the systems, including by establishing contacts with users and potential users of the services provided under the Galileo and EGNOS programmes, and it should collect information on their requirements and developments on the satellite navigation market. Furthermore, it should perform tasks which the Commission confers on it by means of one or more delegation agreements covering other various specific tasks associated with the programmes, in particular tasks associated with the exploitation phases of the systems, including the operational management of the programmes, the promotion of the applications and services on the satellite navigation market and the promotion of the development of fundamental elements relating to the programmes. In order for the Commission, representing the Union, to exercise its power of control fully, those delegation agreements should include the general conditions governing the management of funds entrusted to the European GNSS Agency.

The transfer of responsibility to the European GNSS Agency for tasks associated with the operational management of the Galileo and EGNOS programmes

and their exploitation should be gradual and conditional on the successful completion of an appropriate handover review as well as on the readiness of the European GNSS Agency to take on such tasks, in order to secure those programmes' continuity. For EGNOS, the handover should take place on 1 January 2014; for Galileo, it is expected to occur in 2016.

- (30) For the deployment phase of the Galileo programme, the Union should conclude a delegation agreement with ESA setting out the tasks of ESA in that phase. The Commission, representing the Union, should make every effort to conclude that delegation agreement within six months of the date of application of this Regulation. In order for the Commission to exercise its power of control fully, the delegation agreement should include the general conditions for managing the funds entrusted to ESA. In respect of activities exclusively financed by the Union, such conditions should ensure a degree of control comparable to that required if ESA were an agency of the Union.
- (31) For the exploitation phase of the Galileo and EGNOS programmes, the European GNSS Agency should conclude working arrangements with ESA setting out the latter's task in developing future generations of the systems and in providing technical support in relation to the existing generation of systems. Those arrangements should comply with Regulation (EU, Euratom) No 966/2012. They should not cover the role of ESA as regards activities relating to research and technology, or the early phases of evolution and research activities relating to the infrastructures established under the Galileo and EGNOS programmes. Such activities should be financed outside the scope of the budget allocated to the programmes, for instance by funds allocated to Horizon 2020.
- (32) Responsibility for the progress of the Galileo and EGNOS programmes includes, in particular, responsibility for their security and the security of their systems and operation. Except in the case of application of Council Joint Action 2004/552/CFSP ⁽²⁾, which needs to be reviewed to reflect the changes in the Galileo and EGNOS programmes, their governance and the changes to the Treaty on European Union and the Treaty on the Functioning of the European Union resulting from the Treaty of Lisbon, the Commission is responsible for security, even if certain security-related tasks are entrusted to the European GNSS Agency. It is the responsibility of the Commission to establish mechanisms to ensure suitable coordination between the various entities responsible for security.
- (33) In the application of this Regulation, for matters relating to security, the Commission should consult the relevant security experts of the Member States.

⁽¹⁾ Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council (OJ L 276, 20.10.2010, p. 11).

⁽²⁾ Council Joint Action 2004/552/CFSP of 12 July 2004 on aspects of the operation of the European satellite radio-navigation system affecting the security of the European Union (OJ L 246, 20.7.2004, p. 30).

- (34) Given the specific expertise of EEAS and its regular contact with administrations of third countries and international organisations, it is in a position to assist the Commission in performing certain of its tasks relating to the security of the systems and the Galileo and EGNOS programmes in the field of external relations, in accordance with Council Decision 2010/427/EU⁽¹⁾. The Commission should ensure that EEAS is fully associated with its activities in implementing security-related tasks in the field of external relations. To that end, all necessary technical support should be provided to EEAS.
- (35) To ensure the secure circulation of information, within the scope of this Regulation, the relevant security regulations should offer a degree of protection for EU-classified information equivalent to that provided by the rules on security as set out in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom⁽²⁾ and by the security rules of the Council set out in the Annexes to Council Decision 2013/488/EU⁽³⁾. Each Member State should ensure that its national security regulations apply to all natural persons resident on its territory and to all legal entities established on its territory which deal with EU-classified information regarding the Galileo and EGNOS programmes. The security regulations of ESA and the Decision of 15 June 2011 of the High Representative of the Union for Foreign Affairs and Security Policy⁽⁴⁾ should be considered as equivalent to the rules on security set out in the Annex to Decision 2001/844/EC, ECSC, Euratom and to the security rules set out in the Annexes to Decision 2013/488/EU.
- (36) This Regulation is without prejudice to existing and future rules on access to documents adopted in accordance with Article 15(3) of the Treaty on the Functioning of the European Union (TFEU). Furthermore, this Regulation should not be understood as imposing an obligation on Member States to disregard their constitutional requirements in respect of access to documents.
- (37) In order to allocate the Union funds attributed to the Galileo and EGNOS programmes with a ceiling total that the Commission should not exceed, effective public procurement procedures should be applied and, in particular, contracts negotiated so as to ensure optimum use of resources, satisfactory services, smooth running of programmes, good risk management and compliance with the proposed schedule. The relevant contracting authority should make every effort to meet those requirements.
- (38) As the Galileo and EGNOS programmes will be, in principle, financed by the Union, public procurement under those programmes should comply with Union rules on public contracts and should aim, first and foremost, to obtain best value for money, control costs, mitigate risks, improve efficiency and reduce reliance on a single supplier. Open access and fair competition throughout the supply chain and the balanced offering of participation opportunities to industry at all levels, including, in particular, new entrants and small and medium-sized enterprises ('SMEs'), should be ensured. Possible abuse of dominant position and of long-term reliance on single suppliers should be avoided. In order to mitigate programme risks, to avoid reliance on a single source of supply and to ensure better overall control of the programmes and their costs and schedules, multiple sourcing should be pursued, wherever appropriate. Moreover, the development of European industry should be preserved and promoted in all areas relating to satellite navigation, in accordance with international agreements to which the Union is Part. The risk of poor contract performance or of non-performance should be mitigated as much as possible. To that end, contractors should demonstrate the sustainability of their contractual performance with respect to the commitments undertaken and the duration of the contract. Therefore, contracting authorities should, wherever appropriate, specify requirements relating to the reliability of supplies and of the provision of services.
- In addition, in the case of the purchase of goods and services of a sensitive nature, contracting authorities may subject such purchase to specific requirements, particularly with a view to ensuring security of information. Union industries should be permitted to rely on non-Union sources for certain components and services where substantial advantages are demonstrated in terms of quality and costs, taking account, however, of the strategic nature of the programmes and of Union security and export control requirements. Advantage should be taken of public sector investment and industrial experience and competence, including that acquired during the definition and development and validation phases of the programmes, while ensuring that the rules on competitive tendering are not contravened.
- (39) In order to better evaluate the total cost of a product, service or work being tendered, including its long term operational cost, the total cost over the useful lifecycle of the product, service or work being tendered should be taken into account wherever appropriate during the

⁽¹⁾ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

⁽²⁾ 2001/844/EC, ECSC, Euratom: Commission Decision of 29 November 2001 amending its internal Rules of Procedure (OJ L 317, 3.12.2001, p. 1).

⁽³⁾ 2013/488/EU: Council Decision of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

⁽⁴⁾ OJ C 304, 15.10.2011, p. 7.

procurement, by using a cost effectiveness approach such as lifecycle costing when pursuing procurement based on the criterion of the most economically advantageous tender award. For that purpose, the contracting authority should make sure that the methodology intended to compute the costs for the useful lifecycle of a product, service or work is expressly mentioned in the contract documents or the contract notice and that it allows the accuracy of the information supplied by the tenderers to be verified.

- (40) Satellite navigation is a complex and constantly changing technology. This results in uncertainty and risk for public contracts concluded under the Galileo and EGNOS programmes, insofar as such contracts may involve long-term commitments to equipment or services. Those characteristics require specific measures to be implemented concerning public contracts which apply in addition to the rules laid down in Regulation (EU, Euratom) No 966/2012. The contracting authority should thus be able to restore a level playing-field when one or more companies have, prior to a call for tenders, privileged information on the activities associated with the call for tender. It should be possible to award a contract in the form of a conditional stage-payment contract, introduce an amendment, under certain conditions, in the context of its performance, or even impose a minimum level of subcontracting. Finally, due to the technological uncertainties that are a feature of the Galileo and EGNOS programmes, contract prices cannot always be forecast accurately and it is therefore desirable to conclude contracts in a specific form that do not stipulate a firm fixed price and include clauses to safeguard the financial interests of the Union.
- (41) It should be noted that, in accordance with Article 4(3) of the Treaty on European Union ("TEU"), the Member States should not take measures which could be detrimental to the Galileo and EGNOS programmes or the services. It should also be made clear that the Member States concerned should take all necessary measures to ensure the protection of the ground stations established on their territories. In addition, Member States and the Commission should work together and with appropriate international bodies and regulatory authorities to ensure that the radio spectrum necessary for the system established under the Galileo programme is available and protected to allow for the full development and implementation of applications based on that system, in compliance with Decision No 243/2012/EU of the European Parliament and of the Council⁽¹⁾.
- (42) In view of the global nature of the systems, it is essential that the Union enter into agreements with third countries and international organisations in the context of the Galileo and EGNOS programmes under Article 218 TFEU, in particular to ensure their smooth implementation, deal with certain questions relating to security and charging, optimise the services provided to citizens of the Union and meet the needs of third countries and international organisations. It is also useful, where necessary, to adapt existing agreements to changes in the Galileo and EGNOS programmes. When preparing or implementing those agreements, the Commission may have recourse to the assistance of EEAS, ESA and the European GNSS Agency, within the limits of the tasks allocated to them under this Regulation.
- (43) It should be confirmed that the Commission, in performing certain of its tasks of a non-regulatory nature, may have recourse, as required and insofar as necessary, to the technical assistance of certain external parties. Other entities involved in the public governance of the Galileo and EGNOS programmes may also make use of the same technical assistance in performing tasks entrusted to them under this Regulation.
- (44) The Union is based on respect for fundamental rights and in particular Articles 7 and 8 of the Charter of Fundamental Rights of the European Union expressly recognize the fundamental right to privacy and to the protection of personal data. Protection of personal data and private life should be ensured under the Galileo and EGNOS programmes.
- (45) 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.
- (46) It is necessary to ensure that the European Parliament and the Council are kept regularly informed about the implementation of the Galileo and EGNOS programmes, in particular with regard to risk management, cost, schedule and performance. In addition, the European Parliament, the Council and the Commission will meet in the Galileo Interinstitutional Panel in accordance with the Joint declaration on the Galileo Interinstitutional Panel published together with this Regulation.
- (47) Assessments, based on agreed indicators, should be carried out by the Commission in order to evaluate the effectiveness and efficiency of the measures taken to achieve the objectives of the Galileo and EGNOS programmes.

⁽¹⁾ Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

- (48) In order to ensure the security of the systems and their operation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the high level objectives necessary to ensure the security of the systems and their operation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (49) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (50) As sound public governance requires uniform management of the Galileo and EGNOS programmes, faster decision-making and equal access to information, representatives of the European GNSS Agency and ESA should be able to take part as observers in the work of the European GNSS Programmes Committee ("the Committee") established to assist the Commission. For the same reasons, representatives of third countries and international organisations who have concluded an international agreement with the Union should be able to take part in the work of the Committee subject to security constraints and as provided for in the terms of such agreement. These representatives of the European GNSS Agency, ESA, third countries and international organisations are not entitled to take part in Committee voting procedures.
- (51) Since the objective of this Regulation, namely the establishment and exploitation of satellite navigation systems, cannot be sufficiently achieved by the Member States since it exceeds the financial and technical capacities of any single Member State, and can therefore, by reason of its scale and effects, be better achieved by action at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. 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.
- (52) The Galileo Joint Undertaking created by Council Regulation (EC) No 876/2002 ⁽²⁾ ceased its operations on

31 December 2006. Regulation (EC) No 876/2002 should therefore be repealed.

- (53) Given the need to evaluate the Galileo and EGNOS programmes, the extent of the changes to be made to Regulation (EC) No 683/2008, and in the interests of clarity and legal certainty, Regulation (EC) No 683/2008 should be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject

This Regulation lays down the rules in relation to the implementation and exploitation of the systems under the European satellite navigation programmes, in particular those relating to the governance and the financial contribution of the Union.

Article 2

European satellite navigation systems and programmes

1. The European satellite navigation programmes, Galileo and EGNOS, shall cover all the activities needed to define, develop, validate, construct, operate, renew and improve the European satellite navigation systems, namely the system established under the Galileo programme and the EGNOS system, and to ensure their security and interoperability.

Those programmes shall also aim to maximise the socio-economic benefits of the European satellite navigation systems, in particular by promoting the use of the systems and fostering the development of applications and services based on those systems.

2. The system established under the Galileo programme shall be a civil system under civil control and an autonomous global navigation satellite system (GNSS) infrastructure consisting of a constellation of satellites and a global network of ground stations.

3. The EGNOS system shall be a regional satellite navigation system infrastructure monitoring and correcting open signals emitted by existing global satellite navigation systems, as well as the open service signals offered by the system established under the Galileo programme, when they become available. It consists of ground stations and several transponders installed on geostationary satellites.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²⁾ Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking (OJ L 138, 28.5.2002, p. 1).

4. The specific objectives of the Galileo programme shall be to ensure that the signals emitted by the system established under that programme can be used to fulfil the following functions:

- (a) to offer an open service (OS), which is free of charge to the user and provides positioning and synchronisation information intended mainly for high-volume satellite navigation applications;
- (b) to contribute, by means of Galileo open service signals and/or in cooperation with other satellite navigation systems, to integrity-monitoring services aimed at users of safety-of-life applications in compliance with international standards;
- (c) to offer a commercial service (CS) for the development of applications for professional or commercial use by means of improved performance and data with greater added value than those obtained through the open service;
- (d) to offer a public regulated service (PRS) restricted to government-authorised users, for sensitive applications which require a high level of service continuity, free of charge for the Member States, the Council, the Commission, EEAS and, where appropriate, duly authorised Union agencies; this service uses strong, encrypted signals. The question of whether to charge the other PRS participants referred to in Article 2 of Decision No 1104/2011/EU shall be assessed on a case-by-case basis and appropriate provisions shall be specified in the agreements concluded pursuant to Article 3(5) of that Decision;
- (e) to contribute to the search and rescue support service (SAR) of the COSPAS-SARSAT system by detecting distress signals transmitted by beacons and relaying messages to them.

5. The specific objectives of the EGNOS programme shall be to ensure that the signals emitted by the EGNOS system can be used to fulfil the following functions:

- (a) to offer an open service (OS), which is free of charge to the user, and provides positioning and synchronisation information intended mainly for high-volume satellite navigation applications in the area covered by the EGNOS system;
- (b) to offer a service for the dissemination of commercial data, namely the EGNOS Data Access Service (EDAS), to promote the development of applications for professional or commercial use by means of improved performance and data with greater added value than those obtained through its open service;

- (c) to offer a safety-of-life service (SoL) service aimed at users for whom safety is essential; this service, which is provided free of direct user charges, fulfils in particular the requirements of certain sectors for continuity, availability and accuracy and includes an integrity message alerting the user to any failure in, or out-of-tolerance signals from, systems augmented by the EGNOS system over the coverage area.

As a priority, those functions shall be provided within the Member States' territories geographically located in Europe as soon as possible.

The geographical coverage of the EGNOS system may be extended to other regions of the world, in particular to the territories of candidate countries, of third countries associated with the Single European Sky and of countries in the European Neighbourhood Policy, subject to technical feasibility and on the basis of international agreements. The cost of such extension, including the related exploitation costs, shall not be covered by the resources referred to in Article 9. Such extension shall not delay the extension of the geographical coverage of the EGNOS system throughout the Member States' territories geographically located in Europe.

Article 3

Galileo programme phasing

The Galileo programme shall consist of the following phases:

- (a) a definition phase during which the structure of the system was designed and its elements determined, which ended in 2001;
- (b) a development and validation phase, scheduled to be completed by 31 December 2013, comprising the construction and launch of the first satellites, the establishment of the first ground-based infrastructure and all the work and operations necessary to validate the system in orbit;
- (c) a deployment phase to be completed by 31 December 2020, comprising:
 - (i) the construction, establishment and protection of all space-based infrastructure, in particular of all the satellites necessary to achieve the specific objectives referred to in Article 2(4) and of the required spare satellites, and the related evolutive maintenance and operations;
 - (ii) the construction, establishment and protection of all ground-based infrastructure, in particular of the infrastructure required to control the satellites and process the satellite radio-navigation data, and of service centres and other ground-based centres, and the related evolutive maintenance and operations;

- (iii) preparations for the exploitation phase, including preparatory activities relating to the provision of the services referred to in Article 2(4);
- (d) an exploitation phase comprising:
 - (i) the management, maintenance, continuous improvement, evolution and protection of the space-based infrastructure, including replenishment and obsolescence management;
 - (ii) the management, maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular of service centres and other ground-based centres, networks and sites, including replenishment and obsolescence management;
 - (iii) the development of future generations of the system and the evolution of the services referred to in Article 2(4);
 - (iv) certification and standardisation operations associated with the programme;
 - (v) the provision and marketing of the services referred to in Article 2(4);
 - (vi) cooperation with other GNSS; and
 - (vii) all other activities needed to develop the system and ensure that the programme runs smoothly.
- (d) certification and standardisation operations associated with the programme;
- (e) the provision and marketing of the services referred to in Article 2(5);
- (f) all elements justifying the reliability of the system and its exploitation;
- (g) coordination activities relating to the completion of the specific objectives pursuant to the second and third subparagraphs of Article 2(5).

Article 5

Compatibility and interoperability of the systems

1. The systems, networks and services resulting from the Galileo and EGNOS programmes shall be compatible and interoperable from a technical point of view.
2. The systems, networks and services resulting from the Galileo and EGNOS programmes shall be compatible and interoperable with other satellite navigation systems and with conventional means of radio navigation, where such compatibility and interoperability requirements are laid down in an international agreement concluded pursuant to Article 29.

Article 6

Ownership

The Union shall be the owner of all tangible and intangible assets created or developed under the Galileo and EGNOS programmes. To that effect, agreements shall be concluded with third parties, wherever appropriate, with regard to existing ownership rights.

The Commission shall ensure, through an appropriate framework, the optimal use of the assets referred to in this Article; in particular, it shall manage the intellectual property rights relating to the Galileo and EGNOS programmes as effectively as possible, taking into account the need to protect and give value to the Union's intellectual property rights, the interests of all stakeholders, and the necessity of harmonious development of the markets and of new technologies. To that end, it shall ensure that the contracts entered into, under the Galileo and EGNOS programmes, include the possibility of transferring or licensing intellectual property rights arising from work performed under those programmes to third parties.

Article 4

The EGNOS exploitation phase

The EGNOS exploitation phase mainly comprises:

- (a) the management, maintenance, continuous improvement, evolution and protection of the space-based infrastructure, including replenishment and obsolescence management;
- (b) the management, maintenance, continuous improvement, evolution and protection of the ground-based infrastructure, in particular networks, sites and support facilities, including replenishment and obsolescence management;
- (c) the development of future generations of the system and the evolution of the services referred to in Article 2(5);

CHAPTER II

BUDGETARY CONTRIBUTION AND MECHANISMS

Article 7

Activities

1. The Union budgetary appropriations assigned to the Galileo and EGNOS programmes for the period 2014-2020 under this Regulation shall be granted to finance activities relating to:
 - (a) the completion of the deployment phase of the Galileo programme as referred to in Article 3(c);

- (b) the exploitation phase of the Galileo programme as referred to in Article 3(d);
- (c) the exploitation phase of the EGNOS programme as referred to in Article 4;
- (d) the management and monitoring of the Galileo and EGNOS programmes.

2. The Union budgetary appropriations assigned to the Galileo and EGNOS programmes shall, in accordance with Article 9(2), also be granted to finance activities relating to research and development of fundamental elements, such as Galileo-enabled chipsets and receivers.

3. The Union budgetary appropriations assigned to the Galileo and EGNOS programmes shall also cover Commission expenditure relating to the preparation, monitoring, inspection, audit and assessment activities required for the management of the programmes and the implementation of the specific objectives referred to in Article 2(4) and (5). Such expenditure may cover in particular:

- (a) studies and meetings with experts;
- (b) information and communication activities, including institutional communication on the policy priorities of the Union where they are directly linked to the objectives of this Regulation, with a particular view to creating synergies with other relevant Union policies;
- (c) IT technology networks, with the objective of processing or transferring data;
- (d) any other technical or administrative assistance given to the Commission for the management of the programmes.

4. The costs of the Galileo and EGNOS programmes and of the different phases of those programmes shall be clearly identified. The Commission shall, in accordance with the principle of transparent management, inform the European Parliament, the Council and the Committee referred to in Article 36 ("the Committee") on an annual basis of the allocation of Union funds, including the contingency reserve, to each of the activities specified in paragraphs 1, 2 and 3 of this Article and of the use of those funds.

Article 8

Financing of the Galileo and EGNOS programmes

1. In accordance with Article 9, the Union shall finance the activities relating to Galileo and EGNOS programmes referred to in Article 7(1), (2) and (3), to fulfil the objectives as set out in Article 2, without prejudice to any contribution from any other funding source, including those referred to in paragraphs 2 and 3 of this Article.

2. Member States may make a request to provide additional funding for the Galileo and EGNOS programmes to cover additional elements in particular cases, on condition that such additional elements do not create any financial or technical burden or any delay for the programme concerned. On the basis of a request from a Member State, the Commission shall decide, in accordance with the examination procedure referred to in Article 36(3), whether those two conditions have been met. The Commission shall communicate any impact on the Galileo and EGNOS programmes resulting from the application of this paragraph to the European Parliament, the Council and the Committee.

3. Third countries and international organisations may also provide additional funding for the Galileo and EGNOS programmes. The international agreements referred to in Article 29 shall stipulate the conditions and arrangements for their involvement.

4. The additional funding referred to in paragraphs 2 and 3 of this Article shall constitute external assigned revenue in accordance with Article 21(2) of Regulation (EU, Euratom) No 966/2012.

Article 9

Resources

1. The financial envelope for the implementation of the activities referred to in Article 7(1), (2) and (3) and for covering the risks associated with those activities is set at EUR 7 071,73 million in current prices for the period from 1 January 2014 to 31 December 2020.

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

The amount referred to in the first subparagraph shall be broken down in the following categories of expenditure in current prices:

- (a) for the activities referred to in point (a) of Article 7(1), EUR 1 930 million;
- (b) for the activities referred to in point (b) of Article 7(1), EUR 3 000 million;
- (c) for the activities referred to in point (c) of Article 7(1), EUR 1 580 million;
- (d) for the activities referred to in point (d) of Article 7(1) and in Article 7(3), EUR 561,73 million.

2. Without prejudice to any amounts allocated to the development of applications based on the systems within Horizon 2020, the budgetary appropriations assigned to the Galileo and EGNOS programmes, including assigned revenues, shall finance the activities as referred to in Article 7(2) up to a maximum of EUR 100 million at constant prices.

3. The Commission may re-allocate funds from one category of expenditure, as laid down in points (a) to (d) of the third subparagraph of paragraph 1, to another, up to a ceiling of 10 % of the amount referred to in the first subparagraph of paragraph 1. Where the re-allocation reaches a cumulative amount greater than 10 % of the amount referred to in the first subparagraph of paragraph 1, the Commission shall consult the Committee in accordance with the advisory procedure referred to in Article 36(2).

The Commission shall inform the European Parliament and the Council of any re-allocation of funds between categories of expenditure.

4. The appropriations shall be implemented in accordance with the applicable provisions of this Regulation and Regulation (EU, Euratom) No 966/2012.

5. Budgetary commitments for the Galileo and EGNOS programmes shall be appropriated in annual instalments.

6. The Commission shall manage the financial resources referred to in paragraph 1 in a transparent and cost-effective manner. The Commission shall report annually to the European Parliament and the Council on the cost-management strategy pursued.

Article 10

Revenue generated by the Galileo and EGNOS programmes

1. Revenue generated by the exploitation of the systems shall be collected by the Union, paid to the Union budget and allocated to the Galileo and EGNOS programmes, and in particular to the objective referred to in Article 2(1). If the income proves to exceed that required to fund the programme exploitation phases, any adaptation of the principle of allocation shall be approved by the European Parliament and the Council on the basis of a proposal from the Commission.

2. A revenue-sharing mechanism may be provided for in contracts concluded with private sector entities.

3. The interest generated by pre-financing payments made to entities responsible for implementing the budget indirectly shall be assigned to activities subject to the delegation agreement or the contract concluded between the Commission and the entity concerned. In accordance with the principle of sound financial management, the entities responsible for indirect implementation of the budget shall open accounts enabling the funds and corresponding interest to be identified.

CHAPTER III

PUBLIC GOVERNANCE OF THE GALILEO AND EGNOS PROGRAMMES

Article 11

Principles for governance of the Galileo and EGNOS programmes

Public governance of the Galileo and EGNOS programmes shall be based on the principles of:

- (a) a strict division of tasks and responsibilities between the various entities involved, in particular the Commission, the European GNSS Agency and ESA, under the overall responsibility of the Commission;
- (b) sincere cooperation between the entities referred to in point (a) and the Member States;
- (c) strong control of programmes, including for strict adherence to cost and schedule by all the entities involved, within their fields of responsibility, with respect to the objectives of the Galileo and EGNOS programmes;
- (d) optimisation and rationalisation of the use of existing structures, in order to avoid any duplications of technical expertise;
- (e) the use of the best practice project management systems and techniques to oversee the implementation of the Galileo and EGNOS programmes, in the light of the specific requirements and with the support of experts in the field.

Article 12

Commission's role

1. The Commission shall have overall responsibility for the Galileo and EGNOS programmes. It shall manage the funds allocated under this Regulation and oversee the implementation of all programme activities, in particular with respect to their cost, schedule and performance.

2. In addition to the overall responsibility referred to in paragraph 1 and the specific tasks referred to in this Regulation, the Commission shall:

- (a) ensure a clear division of tasks between the various entities involved in the Galileo and EGNOS programmes and to this end it shall allocate the tasks referred to in Article 14(2) and Article 15 respectively, in particular by means of delegation agreements, to the European GNSS Agency and ESA;
- (b) ensure the timely implementation of the Galileo and EGNOS programmes within the resources allocated to the programmes and in accordance with the objectives laid down in Article 2.

To that end, it shall establish and implement the appropriate instruments and structural measures necessary to identify, control, mitigate and monitor the risks associated with the programmes;

- (c) manage, on behalf of the Union and within its field of competence, relationships with third countries and international organisations;

(d) provide to the Member States and the European Parliament, in a timely manner, all relevant information pertaining to the Galileo and EGNOS programmes, in particular in terms of risk management, overall cost, annual operating costs of each significant item of Galileo infrastructure, revenues, schedule and performance, as well as an overview of the implementation of the project management systems and techniques referred to in point (e) of Article 11;

(e) assess the possibilities for promoting and ensuring the use of the European satellite navigation systems across the various sectors of the economy, including by analysing how to take advantage of the benefits generated by the systems.

3. For the smooth progress of the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme referred to respectively in Articles 3 and 4, the Commission shall lay down, where necessary, the measures, required to:

(a) manage and reduce the risks inherent in the progress of the Galileo and EGNOS programmes;

(b) define the key decision stages to monitor and evaluate the implementation of the programmes;

(c) determine the location of the ground-based infrastructure of the systems in accordance with security requirements, following an open and transparent process and ensure its operation;

(d) determine the technical and operational specifications necessary to fulfil the functions referred to in points (b) and (c) of Article 2(4) and to implement systems evolutions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36(3).

Article 13

Security of the systems and their operation

1. The Commission shall ensure the security of the Galileo and EGNOS programmes, including the security of the systems and their operation. To that effect, the Commission shall:

(a) take into account the need for the oversight and integration within all the programmes of security-related requirements and standards;

(b) ensure that the overall effect of those requirements and standards will support the successful progress of the programmes, in particular in terms of costs, risk management and schedule;

(c) establish coordination mechanisms between the various bodies involved;

(d) take into account the security standards and requirements in force in order not to lower the general level of security and not to affect the functioning of existing systems based on those standards and requirements.

2. Without prejudice to Articles 14 and 16 of this Regulation and Article 8 of Decision No 1104/2011/EU, the Commission shall adopt delegated acts in accordance with Article 35, laying down the high level objectives necessary to ensure the security of the Galileo and EGNOS programmes referred to in paragraph 1.

3. The Commission shall establish the necessary technical specifications and other measures to implement the high level objectives referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36(3).

4. EEAS shall continue to assist the Commission, in the exercise of its functions in the area of external relations, in accordance with Article 2(2) of Decision 2010/427/EU.

Article 14

The role of the European GNSS Agency

1. In accordance with the guidelines laid down by the Commission, the European GNSS Agency shall:

(a) ensure, with regard to the security of the Galileo and EGNOS programmes, and without prejudice to Articles 13 and 16:

(i) through its Security Accreditation Board, the security accreditation in accordance with Chapter III of Regulation (EU) No 912/2010; accordingly, it shall initiate and monitor the implementation of security procedures and perform system security audits;

(ii) the operation of the Galileo Security Monitoring Centre, as referred to in Article 6(d) of Regulation (EU) No 912/2010, in accordance with the standards and requirements referred to in Article 13 of this Regulation and the instructions pursuant to Joint Action 2004/552/CFSP;

(b) perform the tasks provided for in Article 5 of Decision No 1104/2011/EU, and assist the Commission in accordance with Article 8(6) of that Decision;

(c) contribute, in the context of the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme, to the promotion and marketing of the services referred to in Article 2(4) and (5), including by carrying out the necessary market analysis, in particular through the market report produced annually by the European GNSS Agency on the market for applications and services, by establishing close contacts with users and potential users of the systems with a view to collecting information on their needs, by following developments in satellite navigation downstream markets, and by drawing up an action plan for the uptake by user community of the services referred to in Article 2(4) and (5), comprising in particular relevant actions relating to standardisation and certification.

2. The European GNSS Agency shall also perform other tasks relating to the implementation of the Galileo and EGNOS programmes, including programme management tasks, and shall be accountable for them. Those tasks shall be entrusted to it by the Commission by means of a delegation agreement adopted on the basis of a delegation decision, in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012 and shall include:

- (a) operational activities including systems infrastructure management, maintenance and continuous improvement of the systems, certification and standardisation operations and provision of the services referred to in Article 2(4) and (5);
- (b) development and deployment activities for the evolution and future generations of the systems, and contribution to the definition of service evolutions, including procurement;
- (c) promoting the development of applications and services based on the systems, as well as raising awareness of such applications and services, including identifying, connecting and coordinating the network of European centres of excellence in GNSS applications and services, drawing on public and private sector expertise, and evaluating measures relating to such promotion and awareness-raising;
- (d) promoting the development of fundamental elements, such as Galileo-enabled chipsets and receivers.

3. The delegation agreement referred to in paragraph 2 shall confer an appropriate level of autonomy and authority on the European GNSS Agency, with particular reference to the contracting authority, within the framework of Article 58(1)(c) and Article 60 of Regulation (EU, Euratom) No 966/2012. In addition, it shall lay down general conditions for the management of the funds entrusted to the European GNSS Agency and, in particular, the actions to be implemented, the relevant financing, management procedures, monitoring and control measures, the measures applicable in the event of

inadequate implementation of contracts in terms of costs, schedule and performance, as well as the rules regarding ownership of all tangible and intangible assets.

The monitoring and control measures shall, in particular, provide for a provisional cost forecast system, for systematic information to the Commission on costs and schedule, and, in the event of a discrepancy between the planned budgets, performance and schedule, for corrective action ensuring the implementation of the infrastructures within the limits of the budgets allocated.

4. The European GNSS Agency shall enter into the working arrangements with ESA that are necessary for the fulfilment of their respective tasks under this Regulation for the exploitation phase of the Galileo and EGNOS programmes. The Commission shall inform the European Parliament, the Council and the Committee of such working arrangements concluded by the European GNSS Agency and any changes thereto. Whenever appropriate, the European GNSS Agency may also consider having recourse to other public or private sector entities.

5. In addition to the tasks referred to in paragraphs 1 and 2 and within the scope of its mission, the European GNSS Agency shall provide the Commission with its technical expertise and supply any information necessary for the performance of its tasks under this Regulation, including for the assessment of the possibility of promoting and ensuring the use of the systems referred to in point (e) of Article 12(2).

6. The Committee shall be consulted on the delegation decision referred to in paragraph 2 of this Article, in accordance with the advisory procedure referred to in Article 36(2). The European Parliament, the Council and the Committee shall be informed in advance of the delegation agreements to be concluded by the Union, as represented by the Commission, and the European GNSS Agency.

7. The Commission shall inform the European Parliament, the Council and the Committee of the interim and final results of the evaluation of any procurement tenders and of any contracts with private sector entities, including the information relating to subcontracting.

Article 15

The role of the European Space Agency

1. For the deployment phase of the Galileo programme as referred to in Article 3(c), the Commission shall conclude a delegation agreement without delay with ESA detailing the latter's tasks, in particular as regards the design, development and procurement of the system. The delegation agreement with ESA shall be concluded on the basis of a delegation decision adopted by the Commission in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012.

The delegation agreement shall, insofar as necessary for the tasks and budget implementation delegated, lay down the general conditions for the management of the funds entrusted to ESA, and, in particular, the actions to be implemented as regards the design, development and procurement of the system, the relevant financing, management procedures and monitoring and control measures, the measures applicable in the event of inadequate implementation of contracts in terms of costs, schedule and performance, as well as the rules regarding ownership of all tangible and intangible assets.

The monitoring and control measures shall, in particular, provide for a provisional cost forecast system, for systematic information to the Commission on costs and schedule, and, in the event of a discrepancy between the planned budgets, performance and schedule, for corrective action ensuring the implementation of the infrastructures within the limits of the budgets allocated.

2. The Committee shall be consulted on the delegation decision referred to in paragraph 1 of this Article, in accordance with the advisory procedure referred to in Article 36(2). The European Parliament, the Council and the Committee shall be informed in advance of the delegation agreement to be concluded by the Union, as represented by the Commission, and ESA.

3. The Commission shall inform the European Parliament, the Council and the Committee of the interim and final results of the evaluation of the procurement tenders and of the contracts with private sector entities to be concluded by ESA, including the information relating to subcontracting.

4. For the exploitation phase of the Galileo and EGNOS programmes as referred to in Article 3(d) and Article 4, the working arrangements between the European GNSS Agency and ESA, referred to in Article 14(4) shall address the role of ESA during that phase and its co-operation with the European GNSS Agency, in particular as regards:

- (a) conception, design, monitoring, procurement and validation in the framework of the development of future generations of the systems;
- (b) technical support in the framework of operation and maintenance of the existing generation of the systems.

Those arrangements shall comply with Regulation (EU, Euratom) No 966/2012 and with the measures laid down by the Commission in accordance with Article 12(3).

5. Without prejudice to the delegation agreement and the working arrangements referred to in paragraphs 1 and 4

respectively, the Commission may request from ESA technical expertise and information necessary for the performance of its tasks under this Regulation.

CHAPTER IV

ASPECTS RELATING TO THE SECURITY OF THE UNION OR OF THE MEMBER STATES

Article 16

Joint Action

Whenever the security of the Union or its Member States may be affected by the operation of the systems, the procedures set out in Joint Action 2004/552/CFSP shall apply.

Article 17

Application of the rules on classified information

Within the scope of this Regulation:

- (a) each Member State shall ensure that its national security regulations offer a degree of protection of EU classified information equivalent to that provided by the rules on security as set out in the Annex to Decision 2001/844/EC, ECSC, Euratom and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU;
- (b) Member States shall without delay inform the Commission of the national security regulation as referred to in point (a);
- (c) natural persons resident in and legal persons established in third countries may deal with EU classified information regarding the Galileo and EGNOS programmes only where they are subject, in those countries, to a security regulation ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in the Annex to Decision 2001/844/EC, ECSC, Euratom and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU. The equivalence of the security regulation applied in a third country or international organisation shall be defined in a security of information agreement between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU;
- (d) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in the Annex to Decision 2001/844/EC, ECSC, Euratom, a natural person or legal person, third country or international organisation may be given access to EU classified information where deemed necessary on a case by case basis, according to the nature and content of such information, the recipient's need-to-know and the degree of advantage to the Union.

CHAPTER V

PUBLIC PROCUREMENT

SECTION I

General provisions applicable to public procurement conducted as part of the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme

Article 18

General principles

Without prejudice to measures required to protect the essential interests of the security of the Union or public security or to comply with Union export control requirements, Regulation (EU, Euratom) No 966/2012 shall apply to the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme. Moreover, the following general principles shall also apply to the deployment and exploitation phases of the Galileo programme and to the exploitation phase of the EGNOS programme: open access and fair competition throughout the industrial supply chain, tendering on the basis of the provision of transparent and timely information, clear communication of the applicable procurement rules, selection and award criteria and any other relevant information allowing a level-playing field for all potential bidders.

Article 19

Specific objectives

During the procurement procedure, the following objectives shall be pursued by the contracting authorities in their calls for tender:

- (a) to promote the widest and most open participation possible throughout the Union by all economic operators, in particular by new entrants and SMEs, including through encouraging recourse to sub-contracting by the tenderers;
- (b) to avoid possible abuse of a dominant position and reliance on a single supplier;
- (c) to take advantage of prior public sector investments and lessons learned, as well as industrial experience and competences, including that acquired in the definition, development and validation and deployment phases of the Galileo and EGNOS programmes, while ensuring that competitive tendering rules are complied with;
- (d) to pursue multiple sourcing wherever appropriate in order to ensure better overall control of the Galileo and EGNOS programmes, their costs and schedule;
- (e) to take into account wherever appropriate the total cost over the useful lifecycle of the product, service or work being tendered.

SECTION 2

Specific provisions applicable to public procurement conducted as part of the deployment and exploitation phases of the Galileo programme and the exploitation phase of the EGNOS programme

Article 20

Establishing fair competition conditions

The contracting authority shall take the appropriate measures to ensure fair competition conditions when the previous involvement of a company in activities associated with the subject of the call for tender:

- (a) may confer significant advantages on that company in terms of privileged information and therefore may give rise to concerns as to compliance with the principle of equal treatment; or
- (b) affect normal competition conditions or the impartiality and objectivity of the award or performance of the contracts.

These measures shall not distort competition, or jeopardise equal treatment or the confidentiality of data collected about undertakings, their business relations and cost structure. In that context, those measures shall take into account the nature and particulars of the intended contract.

Article 21

Security of information

When contracts involve, require and/or contain classified information, the contracting authority shall specify in the tender documents the measures and requirements necessary to ensure the security of such information at the requisite level.

Article 22

Reliability of supply

The contracting authority shall specify in the tender documents its requirements in relation to the reliability of supplies and of the provision of services for the execution of the contract.

Article 23

Conditional stage-payment contracts

1. The contracting authority may award a contract in the form of a conditional stage-payment contract.
2. A conditional stage-payment contract shall include a fixed stage which shall be accompanied by a budgetary commitment which results in a firm commitment to provide the works, supplies or services contracted for that stage, and one or more stages which are conditional in terms of both budget and execution. The tender documents shall refer to the specific features of conditional stage-payment contracts. In particular, they shall specify the subject-matter of the contract, the price or the arrangements for determining the price and the arrangements for the provision of works, supplies and services at each stage.

3. The fixed stage obligations shall be part of a consistent whole; the same shall be true for the obligations under each conditional stage, taking into account the obligations under the previous stages.

4. The performance of each conditional stage shall be subject to a decision by the contracting authority, notified to the contractor in accordance with the contract. When a conditional stage is confirmed late or is not confirmed, the contractor may benefit, if the contract so provides and under the conditions laid down therein, from a tide-over allowance or a non-execution allowance.

5. Where, with regard to a particular stage, the contracting authority finds that works, supplies, or services agreed for that stage have not been completed, it may claim damages and terminate the contract, if the contract so provides and under the conditions laid down therein.

Article 24

Cost-reimbursement contracts

1. The contracting authority may opt for a full or partial cost-reimbursement contract up to a ceiling price, under the conditions laid down in paragraph 2.

The price to be paid for such contracts shall consist of reimbursement of all direct costs incurred by the contractor in performing the contract, such as expenditure on labour, materials, consumables, and use of the equipment and infrastructures necessary to perform the contract. These costs shall be increased by a fixed fee covering indirect costs and the profit, or a sum covering indirect costs and incentive fee compensation based on achieving objectives in respect of performance and delivery schedules.

2. The contracting authority may opt for a full or partial cost-reimbursement contract when it is objectively impossible to specify an accurate fixed price and if it can be reasonably shown that such a fixed price would be abnormally high due to the uncertainties inherent in performance of the contract because:

- (a) the contract has very complex features or features which require the use of a new technology and, therefore, includes a significant number of technical risks; or
- (b) the activities subject to the contract must, for operational reasons, start immediately even though it is not yet possible to determine a firm fixed price in full due to significant risks or because the performance of the contract depends in part on the performance of other contracts.

3. The ceiling price for a full or partial cost-reimbursement contract shall be the maximum price payable. It may be

exceeded only in duly justified exceptional circumstances subject to prior agreement by the contracting authority.

4. The tender documents of a procurement procedure for a full or partial cost-reimbursement contract shall specify:

- (a) the type of contract, namely whether it is a full or partial cost-reimbursement contract up to a ceiling price;
 - (b) for a partial cost-reimbursement contract, the elements of the contract subject to cost-reimbursement;
 - (c) the total ceiling price;
 - (d) the award criteria, which must enable an evaluation of the plausibility of the estimated overall budget, of the reimbursable costs, of the mechanisms for determining those costs, and the profit referred to in the tender to be evaluated;
 - (e) the mechanics of the increase referred to in paragraph 1 to be applied to direct costs;
 - (f) the rules and procedures which determine the eligibility of the costs planned by the tenderer for the performance of the contract, in accordance with the principles set out in paragraph 5;
 - (g) the accounting rules with which tenderers must comply;
 - (h) in the case of a partial cost-reimbursement contract to be converted into a firm fixed-price contract, the parameters for such conversion.
5. The costs declared by the contractor during the performance of a full or partial cost-reimbursement contract shall only be eligible if they:
- (a) are actually incurred in the course of the contract, with the exception of the costs for the equipment, infrastructures and intangible fixed assets necessary for performance of the contract which may be deemed eligible up to the whole of their purchase value;
 - (b) are referred to in the estimated overall budget which may be revised by amendments to the initial contract;
 - (c) are necessary for the performance of the contract;
 - (d) result from and are attributable to the performance of the contract;

- (e) are identifiable, verifiable, recorded in the contractor's accounting record and determined in accordance with the accounting standards referred to in the specifications and in the contract;
- (f) comply with the requirements of applicable tax and social law;
- (g) do not derogate from the terms of the contract;
- (h) are reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

The contractor shall be responsible for its own cost accounting, keeping sound accounting records or any other document required to show that the costs for which reimbursement is requested have been incurred and comply with the principles set out in this Article. Costs which cannot be substantiated by the contractor shall be deemed ineligible and their reimbursement shall be refused.

6. The contracting authority shall be responsible for the following tasks in order to ensure correct performance of cost-reimbursement contracts:

- (a) determining the most realistic possible ceiling price, while providing the necessary flexibility to account for technical difficulties;
- (b) converting a partial cost-reimbursement contract into a full firm fixed-price contract as soon as it is possible to determine such a firm fixed-price during performance of the contract. For that reason, it shall determine the conversion parameters to convert a contract concluded on a cost-reimbursement basis to a firm fixed-price contract;
- (c) implementing monitoring and control measures which provide, in particular, an estimated cost forecast system;
- (d) determining suitable principles, tools and procedures for the performance of the contract, in particular for identifying and checking the eligibility of the costs declared by the contractor or its subcontractors during the performance of the contract, and for introducing amendments to the contract;
- (e) checking that the contractor and its subcontractors comply with the accounting standards stipulated in the contract and with the obligation to provide their accounting documents which should present a true and fair view of the accounts;
- (f) throughout the performance of the contract, continuously ensuring the effectiveness of the principles, tools and procedures referred to in point (d).

Article 25

Amendments

The contracting authority and the contractors may change the contract by an amendment on condition that the amendment fulfils all of the following conditions:

- (a) it does not alter the subject-matter of the contract,
- (b) it does not disturb the economic balance of the contract,
- (c) it does not introduce conditions which, if they had appeared initially in the contract documents, would have allowed for the admission of tenderers other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted.

Article 26

Subcontracting

1. The contracting authority shall request the tenderer to subcontract a share of the contract by competitive tendering at the appropriate levels of sub-contracting to companies other than those that belong to the tenderer's group in particular to new entrants and SMEs.

2. The contracting authority shall express the requisite share of the contract to be subcontracted in the form of a range from a minimum to a maximum percentage. It shall ensure that such percentages are proportionate to the objective and value of the contract, taking into account the nature of the sector of activity concerned, and in particular, the competitive conditions and the industrial potential observed.

3. If the tenderer indicates in its tender that it intends not to sub-contract any share of the contract or to subcontract a share smaller than the minimum range referred to in paragraph 2, it shall provide the reasons therefore to the contracting authority. The contracting authority shall submit that information to the Commission.

4. The contracting authority may reject subcontractors selected by the candidate at the stage of the main contract award procedure or by the tenderer selected for the performance of the contract. It shall justify its rejection in writing, which may be based only on the criteria used for selection of tenderers for the main contract.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Article 27

Programming

The Commission shall adopt an annual work programme in the form of an implementation plan of the actions required to meet the specific objectives of the Galileo programme laid down in Article 2(4) according to the phases set out in Article 3 and the specific objectives of the EGNOS programme laid down in Article 2(5). The annual work programme shall also provide for the funding of those actions.

Those implementing measures shall be adopted in accordance with the examination procedure referred to in Article 36(3).

Article 28

Member States' action

The Member States shall take all necessary measures to ensure the good functioning of the Galileo and EGNOS programmes including measures to ensure the protection of the ground stations established on their territories which shall be at least equivalent to those required for the protection of European critical infrastructures within the meaning of Council Directive 2008/114/EC ⁽¹⁾. The Member States shall not take any measures which could be detrimental to the programmes or the services provided through their exploitation, in particular in terms of the continuity of the operation of the infrastructures.

Article 29

International agreements

The Union may enter into agreements with third countries and international organisations in the context of the Galileo and EGNOS programmes in accordance with the procedure laid down in Article 218 TFEU.

Article 30

Technical assistance

In order to carry out the technical tasks referred to in Article 12(2), the Commission may have recourse to the necessary technical assistance, in particular to the capacity and expertise of the national agencies competent in the space sector, or the assistance of independent experts and bodies capable of providing impartial analyses and opinions on the progress of the Galileo and EGNOS programmes.

The entities involved in the public governance of the programmes, other than the Commission, in particular, the European GNSS Agency and ESA, may also receive the same technical assistance in performing the tasks entrusted to them under this Regulation.

Article 31

Personal data and privacy protection

1. The Commission shall ensure that personal data and privacy are protected during the design, implementation and exploitation of the systems and that the appropriate safeguards are included therein.

2. All personal data handled in the context of the tasks and activities provided for in this Regulation shall be processed in

⁽¹⁾ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

accordance with the applicable law on personal data protection, in particular Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾ and Directive 95/46/EC of the European Parliament and of the Council ⁽³⁾.

Article 32

Protection of the Union's financial interests

1. The Commission shall take the appropriate measures to ensure that the financial interests of the Union are protected when actions financed under this Regulation are implemented, 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 amounts unduly paid and, if necessary, by effective, proportionate and dissuasive penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of document and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.

The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections of economic operators directly or indirectly concerned by such funding in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽⁴⁾ and Council Regulation (Euratom, EC) No 2185/96 ⁽⁵⁾ 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 decision or a contract concerning Union financing.

Without prejudice to the first and second subparagraphs, international agreements with third countries and with international organisations, grant agreements, grant decisions and contracts resulting from the application of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations in accordance with their respective competences.

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽³⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽⁴⁾ 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⁾ 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).

Article 33

Information to the European Parliament and to the Council

1. The Commission shall ensure the implementation of this Regulation. Each year, when it presents the preliminary draft budget, it shall present a report to the European Parliament and to the Council on the implementation of the Galileo and EGNOS programmes. That report shall contain all information pertaining to the programmes, in particular in terms of risk management, overall cost, annual operating cost, revenues, schedule and performance, as referred to in point (d) of Article 12(2) and as regards the functioning of the delegation agreements concluded pursuant to Articles 14(2) and 15(1). It shall include:

- (a) an overview of the allocation and use of funds allocated to the programmes as referred to in Article 7(4);
- (b) information on the cost management strategy pursued by the Commission as referred to in Article 9(6);
- (c) an assessment of intellectual property rights management;
- (d) an overview of the implementation of the project management systems and techniques, including risk management systems and techniques, as referred to in point (d) of Article 12(2);
- (e) an evaluation of the measures taken to maximise the socio-economic benefits of the programmes.

2. The Commission shall inform the European Parliament and the Council of the interim and final results of the evaluation of the procurement tenders and of the contracts with private sector entities performed by the European GNSS Agency and ESA pursuant to Article 14(7) and Article 15(3) respectively.

It shall also inform the European Parliament and the Council:

- (a) of any re-allocation of funds between categories of expenditure performed pursuant to Article 9(3);
- (b) of any impact on the Galileo and EGNOS programmes resulting from the application of Article 8(2).

Article 34

Review of the implementation of this Regulation

1. By 30 June 2017, the Commission shall present an evaluation report on the implementation of this Regulation to

the European Parliament and the Council, with a view to a decision being taken on the renewal, modification or suspension of the measures taken pursuant to this Regulation concerning:

- (a) achieving the objectives of those measures, from the point of view of both results and impacts;
- (b) effectiveness of the use of resources;
- (c) European added value.

The evaluation shall also address technological developments relating to the systems, the scope for simplification, its internal and external coherence, the relevance of all objectives, as well as the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth. It shall take into account the results of the evaluation on the long-term impact of the previous measures.

2. The evaluation shall take into account progress made with regard to the specific objectives of the Galileo and EGNOS programmes laid down in Article 2(4) and (5), respectively, on the basis of performance indicators such as:

- (a) for Galileo and as regards:
 - (i) its infrastructure deployment:
 - number and availability of operational satellites, and number of available on-ground spare satellites versus number of planned satellites referred to in the delegation agreement;
 - actual availability of the elements of the ground-based infrastructure (such as ground stations, control centres) versus planned availability;
 - (ii) service level:
 - service availability map per service versus service definition document;
 - (iii) cost:
 - cost performance index per major cost item of the programme based on a ratio comparing actual cost with budgeted cost;
 - (iv) schedule:
 - schedule performance index per major item of the programme based on comparing budgeted cost of work performed with budgeted cost of work scheduled;

(v) market level:

- market trend based on the percentage of Galileo and EGNOS receivers in the total number of receiver models included in the market report provided by the European GNSS Agency referred to in point (c) of Article 14(1).

(b) for EGNOS and as regards:

(i) its coverage extension:

- progress of the coverage extension versus agreed coverage extension plan;

(ii) service level:

- service availability index based on the number of airports with EGNOS-based approach procedures with an operational status versus the total number of airports with EGNOS-based approach procedures;

(iii) cost:

- cost performance index based on a ratio comparing actual cost with budgeted cost;

(iv) schedule:

- schedule performance index based on comparing budgeted cost of work performed with budgeted cost of work scheduled.

3. The bodies involved in the implementation of this Regulation shall provide the Commission with the data and information necessary to enable the actions concerned to be monitored and evaluated.

CHAPTER VII

DELEGATION AND IMPLEMENTING MEASURES

Article 35

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 13(2) shall be conferred on the Commission for an indeterminate period from 1 January 2014.

3. The delegation of power referred to in Article 13(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation

of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 13(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 36

Committee Procedure

1. The Commission shall be assisted by a Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4. Representatives of the European GNSS Agency and ESA shall be involved as observers in the work of the Committee under the conditions laid down in its rules of procedure.

5. International agreements concluded by the Union in accordance with Article 29 may provide for the involvement, as appropriate, of representatives of third countries or international organisations in the work of the Committee under the conditions laid down in its rules of procedure.

6. The Committee shall meet regularly, preferably four times per year, on a quarterly basis. The Commission shall provide a report on programme progress at each meeting. Those reports shall give a general overview of programme status and developments, in particular in terms of risk management, cost, schedule and performance. At least once a year, those reports shall include the performance indicators referred to in Article 34(2).

CHAPTER VIII

FINAL PROVISIONS

Article 37

Repeals

1. Regulations (EC) No 876/2002 and (EC) No 683/2008 shall be repealed with effect from 1 January 2014.

2. Any measure adopted on the basis of Regulation (EC) No 876/2002 or Regulation (EC) No 683/2008 shall remain in force.

3. References to the repealed Regulation (EC) No 683/2008 shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in the Annex hereto.

Article 38

Entry into force

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 11 December 2013.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

V. LEŠKEVIČIUS

ANNEX

CORRELATION TABLE

Regulation (EC) No 683/2008	This Regulation
Article 1	Article 2
Article 2	Article 1
Article 3	Article 3
Article 4	Article 8
Article 5	Article 4
Article 6	Article 8
Article 7	Article 5
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Article 10	Article 9
Article 11	Article 10
Article 12(1)	Article 11
Article 12(2) and (3)	Article 12
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Article 13(4)	Article 16
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Article 19 (5)	Article 35
Article 20	Article 31
Article 21	Article 32
Article 22	Article 33
Article 23	
Article 24	Article 38
Annex	Article 1

Joint declaration

by the European Parliament, the Council and the European Commission on the GALILEO INTERINSTITUTIONAL PANEL (GIP)

1. In view of the importance, uniqueness and complexity of the European GNSS programmes, the Union ownership of systems resulting from the programmes, the full financing of the Union budget of the programmes for the period 2014-2020, the European Parliament, the Council, and the European Commission recognise the need for close cooperation of the three institutions.
 2. A Galileo Interinstitutional Panel (GIP) will meet with the objective to facilitate each institution exercising its respective responsibility. To this end, the GIP will be set up in order to follow closely:
 - (a) the progress on the implementation of the European GNSS programmes, in particular with regard to the implementation of the procurement and the contract agreements, in particular with regard to the ESA;
 - (b) the International Agreements with third countries without prejudice to the provisions of Article 218 of the Treaty on the Functioning of the European Union;
 - (c) the preparation of satellite navigation markets;
 - (d) the effectiveness of the governance arrangements; and
 - (e) the annual review of the work programme.
 3. In accordance with existing rules, the GIP will respect the need for discretion in particular in view of the commercial-in-confidence and sensitive nature of certain data.
 4. The Commission will take account of the views expressed by the GIP.
 5. The GIP will be composed of seven representatives, of which:
 - three from the Council,
 - three from the EP,
 - one from the Commission,and will meet on a regular basis (in principle four times per year).
 6. The GIP does not affect the established responsibilities or interinstitutional relationships.
-

**REGULATION (EU) No 1286/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC

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 Articles 114 and 197 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,

Whereas:

- (1) The multi-annual action programme for taxation which applied before 2014 has significantly contributed to facilitating and enhancing cooperation between tax authorities within the Union. The added value of that programme, including to the protection of the financial interests of Member States of the Union and of taxpayers, has been recognised by the tax administrations of the participating countries. The challenges identified for the next decade cannot be tackled if Member States do not look beyond the borders of their administrative territories or cooperate intensively with their counterparts. The Fiscalis programme, implemented by the Commission in cooperation with the participating countries, offers Member States a Union framework within which to develop those cooperation activities, and which is more cost-effective than if each Member State were to set up individual cooperation frameworks on a bilateral or multilateral basis. It is therefore appropriate to ensure the continuation of that programme by establishing a new programme in the same area.
- (2) The programme established under this Regulation, "Fiscalis 2020", and its success are vital in the present economic situation and should support cooperation in fiscal matters.
- (3) The activities under Fiscalis 2020, namely the European information systems as defined in this Regulation (European Information Systems), the joint actions for officials of tax authorities and the common training initiatives, are expected to contribute to the realisation of the Europe 2020 Strategy for smart, sustainable and inclusive growth by strengthening the functioning of the internal market, providing a framework within which to support activities enhancing the administrative capacity of tax authorities and advancing technical progress and innovation. In providing a framework for activities which strive for more efficient tax authorities, strengthen the competitiveness of businesses, promote employment and contribute to the protection of the financial and economic interests of the Member States of the Union and of taxpayers, Fiscalis 2020 will actively strengthen the functioning of the taxation systems in the internal market, while contributing to the gradual elimination of existing barriers and distortions within the internal market.
- (4) The scope of Fiscalis 2020 should be brought into line with current needs so as to focus on all taxes harmonised at Union level and other taxes in so far as they are relevant for the internal market and for administrative cooperation between the Member States.
- (5) To support the process of accession and association by third countries, Fiscalis 2020 should be open to the participation of acceding and candidate countries and to potential candidate countries and partner countries of the European Neighbourhood Policy if certain conditions are fulfilled and their participation supports only activities under Fiscalis 2020 which are aimed at fighting against tax fraud and tax evasion, and addressing aggressive tax planning. Considering the increasing level of interconnection of the world economy, Fiscalis 2020 should continue to provide for the possibility of inviting external experts to contribute to activities under Fiscalis 2020. External experts, such as representatives of governmental authorities, economic operators and their organisations or representatives of international organisations should be invited only where their contribution is considered to be essential for achieving the objectives of Fiscalis 2020.
- (6) The objectives and priorities of Fiscalis 2020 take into account the problems and challenges identified for taxation in the next decade. Fiscalis 2020 should continue to play a role in vital areas such as the coherent implementation of Union law in the field of taxation, securing the exchange of information and supporting administrative cooperation and enhancing the administrative capacity of tax authorities. Given the problem dynamics of new challenges identified, additional emphasis should be put on supporting the fight against tax fraud, tax evasion and aggressive tax planning. Emphasis should also be placed on reducing the administrative burden for tax authorities and the compliance costs for tax payers and preventing instances of double taxation.

⁽¹⁾ OJ C 143, 22.5.2012, p. 48 and OJ C 11, 15.1.2013, p. 84.

- (7) At an operational level, Fiscalis 2020 should implement, operate and support the European Information Systems and administrative cooperation activities, reinforce the skills and competences of tax officials, enhance the understanding and implementation of Union law in the field of taxation, and support the improvement of administrative procedures and the sharing and dissemination of good administrative practices. Those objectives should be pursued with an emphasis on supporting the fight against tax fraud, tax evasion and aggressive tax planning.
- (8) The programme tools which applied before Fiscalis 2020 should be supplemented in order to respond adequately to challenges awaiting tax authorities in the next decade and to remain in line with developments in Union law. Fiscalis 2020 should cover bilateral or multilateral controls and other forms of administrative cooperation as established in the relevant Union law on administrative cooperation; expert teams; public administration capacity-building actions providing specific and specialised coaching in the field of taxation to Member States facing particular and exceptional circumstances that justify such targeted actions; and, where necessary, studies and common communication activities in order to support the implementation of Union law in the field of taxation.
- (9) The European Information Systems play a vital role in interconnecting tax authorities and thus in reinforcing the taxation systems within the Union and should therefore continue to be financed and improved under Fiscalis 2020. In addition, it should be made possible to include in Fiscalis 2020 new tax-related information systems established under Union law. The European Information Systems should, where appropriate, be based on shared development models and IT architecture.
- (10) In the context of improving administrative cooperation more widely and supporting the fight against tax fraud, tax evasion and aggressive tax planning, it may be useful for the Union to conclude agreements with third countries in order to allow those countries to use the Union components of the European Information Systems to support a secure exchange of information between them and the Member States in the framework of bilateral tax agreements.
- (11) Common training activities should also be carried out under Fiscalis 2020. Fiscalis 2020 should continue to support participating countries in strengthening professional skills and knowledge relating to taxation through enhanced jointly developed training content that targets tax officials and economic operators. To that end, the current common training approach of the Fiscalis 2020, which was mainly based on central eLearning development, should develop into a multi-faceted training support programme for the Union.
- (12) Fiscalis 2020 should cover a period of seven years to align its duration with that of the multiannual financial framework laid down in Council Regulation (EU, Euratom) No 1311/2013 ⁽¹⁾.
- (13) This Regulation lays down a financial envelope for the entire duration of Fiscalis 2020 which is to constitute the prime reference amount, within the meaning of Point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽²⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (14) In line with the Commission's commitment, set out in its Communication on the Budget Review of 2010, to coherence and simplification of funding programmes, resources should be shared with other Union funding instruments if the envisaged activities under Fiscalis 2020 pursue objectives which are common to various funding instruments, excluding however double financing.
- (15) The measures necessary for the financial implementation of this Regulation should be adopted in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾, and with Commission Delegated Regulation (EU) No 1268/2012 ⁽⁴⁾.
- (16) Participating countries should bear the cost of national elements of Fiscalis 2020 which would include, inter alia, the non-Union components of the European Information Systems, and any training which is not part of the common training initiatives.
- (17) Considering the importance of full participation of participating countries in joint actions, a co-financing rate of 100 % of the eligible costs in respect of travel and accommodation costs, costs linked to organisation of events and daily allowances is possible where it is necessary to achieve fully the objectives of Fiscalis 2020.
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- ⁽¹⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the year 2014-2020 (see page 884 of this Official Journal).
- ⁽²⁾ OJ C 37, 20.12.2013, p. 1.
- ⁽³⁾ 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).
- ⁽⁴⁾ 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).

- (18) The financial interests of the Union should be protected through appropriate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, unduly paid or incorrectly used and, where appropriate, penalties.
- (19) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of annual work programmes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (20) Since the objective of this Regulation, namely establishing a multi-annual programme to improve the operation of the taxation systems in the internal market, cannot be sufficiently achieved by the Member States as they cannot efficiently perform the cooperation and coordination necessary to achieve that objective, 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.
- (21) The Commission should be assisted by the Fiscalis 2020 Committee for the implementation of Fiscalis 2020.
- (22) To facilitate the evaluation of Fiscalis 2020, a proper framework for monitoring the results achieved by Fiscalis 2020 should be put in place from the very beginning. The Commission, together with participating countries, should establish adjustable indicators and set pre-defined baselines for monitoring the results of activities under Fiscalis 2020. A mid-term evaluation looking at the achievement of the objectives of Fiscalis 2020, its efficiency and its added value at the European level should be carried out. A final evaluation should, in addition, deal with the long-term impact and the sustainability effects of Fiscalis 2020. Full transparency with regular reporting on monitoring and with the submission of evaluation reports to the European Parliament and to the Council should be ensured.
- (23) Directive 95/46/EC of the European Parliament and of the Council ⁽²⁾ governs the processing of personal data carried out in the Member States in the context of this Regulation and under the supervision of the Member States competent authorities, in particular the public independent authorities designated by the Member

States. Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽³⁾ governs the processing of personal data carried out by Commission within the framework of this Regulation and under the supervision of the European Data Protection Supervisor. Any exchange or transmission of information by competent authorities should be in accordance with the rules on the transfer of personal data as laid down in Directive 95/46/EC and any exchange or transmission of information by the Commission should be in accordance with the rules on the transfer of personal data as laid down in Regulation (EC) No 45/2001.

- (24) This Regulation replaces Decision No 1482/2007/EC of the European Parliament and of the Council ⁽⁴⁾. That Decision should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Subject matter

1. A multi-annual action programme "Fiscalis 2020" ("the programme") is hereby established to improve the operation of the taxation systems in the internal market and to support cooperation in relation thereto.
2. The programme shall cover the period 1 January 2014 to 31 December 2020.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (1) "tax authorities" means the public authorities and other bodies in the participating countries which are responsible for administering taxation or tax-related activities;
- (2) "external experts" means:
 - (a) representatives of governmental authorities, including those from countries not participating in the programme pursuant to Article 3(2);
 - (b) economic operators and organisations representing economic operators;
 - (c) representatives of international and other relevant organisations;

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽³⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽⁴⁾ Decision No 1482/2007/EC of the European Parliament and of the Council of 11 December 2007 establishing a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2013) and repealing Decision No 2235/2002/EC (OJ L 330, 15.12.2007, p. 1).

- (3) "taxation" means the following:
- (a) value added tax provided for in Council Directive 2006/112/EC ⁽¹⁾;
 - (b) excise duties on alcohol provided for in Council Directive 92/83/EEC ⁽²⁾;
 - (c) excise duties on tobacco products provided for in Council Directive 2011/64/EU ⁽³⁾;
 - (d) taxes on energy products and electricity provided for in Council Directive 2003/96/EC ⁽⁴⁾;
 - (e) other taxes falling within the scope of Article 2(1)(a) of Council Directive 2010/24/EU ⁽⁵⁾ in so far as they are relevant for the internal market and for administrative cooperation between the Member States;
- (4) "bilateral or multilateral controls" means the coordinated checking of the tax liability of one or more related taxable persons organised by two or more participating countries with common or complementary interests, which include at least two Member States.

Article 3

Participation in the programme

1. Participating countries shall be the Member States and the countries referred to in paragraph 2, provided the conditions set out in that paragraph are met.
2. The programme shall be open to participation by any of the following countries:
 - (a) acceding countries, candidate countries and potential candidate countries benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements, Association Council decisions or similar agreements;
 - (b) partner countries of the European Neighbourhood Policy provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union.

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁽²⁾ Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21).

⁽³⁾ Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (OJ L 176, 5.7.2011, p. 24).

⁽⁴⁾ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

⁽⁵⁾ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

The partner countries referred to in point (b) of the first subparagraph shall participate in the programme in accordance with provisions to be determined with those countries following the establishment of framework agreements concerning their participation in Union programmes. Their participation shall support only activities under the programme which are aimed at fighting tax fraud and tax evasion and addressing aggressive tax planning.

Article 4

Participation in activities under the programme

External experts may be invited to contribute to selected activities organised under the programme wherever essential for the achievement of the objectives referred to in Articles 5 and 6. The external experts shall be selected by the Commission together with the participating countries, on the basis of their skills, experience and knowledge relevant to the specific activities, taking into account any potential conflict of interest, and striking a balance between business representatives and other civil society experts. A list of selected external experts shall be made public and shall be regularly updated.

Article 5

Overall objective and specific objective

1. The overall objective of the programme shall be to improve the proper functioning of the taxation systems in the internal market by enhancing cooperation between participating countries, their tax authorities and their officials.
2. The specific objective of the programme shall be to support the fight against tax fraud, tax evasion and aggressive tax planning and the implementation of Union law in the field of taxation by ensuring exchange of information, by supporting administrative cooperation and, where necessary and appropriate, by enhancing the administrative capacity of participating countries with a view to assisting in reducing the administrative burden on tax authorities and the compliance costs for taxpayers.
3. The achievement of the objectives referred to in this Article shall be measured on the basis, in particular, of the following:
 - (a) the availability of, and full access to, the common communication network for the European Information Systems;
 - (b) the feedback from participating countries on the results of actions under the programme.

Article 6

Operational objectives and priorities of the programme

1. The operational objectives and priorities of the programme shall be the following:
 - (a) to implement, improve, operate and support the European Information Systems for taxation;
 - (b) to support administrative cooperation activities;
 - (c) to reinforce the skills and competence of tax officials;

- (d) to enhance the understanding and implementation of Union law in the field of taxation;
- (e) to support the improvement of administrative procedures and the sharing of good administrative practices.

2. The objectives and priorities referred to in paragraph 1 shall be pursued with a particular emphasis on supporting the fight against tax fraud, tax evasion and aggressive tax planning.

CHAPTER II

Eligible actions

Article 7

Eligible actions

1. The programme shall provide, under the conditions set out in the annual work programme referred to in Article 14, financial support for the following:

- (a) joint actions:
 - (i) seminars and workshops;
 - (ii) project groups, generally composed of a limited number of countries, operational during a limited period of time to pursue a predefined objective with a precisely described outcome;
 - (iii) bilateral or multilateral controls and other activities provided for in Union law on administrative cooperation, organised by two or more participating countries, which include at least two Member States;
 - (iv) working visits organised by the participating countries or another country to enable officials to acquire or increase their expertise or knowledge in tax matters;
 - (v) expert teams, namely structured forms of cooperation, with a non-permanent character, pooling expertise to perform tasks in specific domains, in particular in the European Information Systems, possibly with the support of online collaboration services, administrative assistance and infrastructure and equipment facilities;
 - (vi) public administration capacity-building and supporting actions;
 - (vii) studies;
 - (viii) communication projects;
 - (ix) any other activity in support of the overall, specific and operational objectives and priorities set out in Articles 5 and 6, provided that the necessity for such other activity is duly justified;

(b) European Information Systems building: the development, maintenance, operation and quality control of Union components of the European Information Systems set out

in point A of the Annex and new European Information Systems established under Union law, with a view to inter-connecting tax authorities efficiently;

- (c) common training activities: jointly developed training actions to support the necessary professional skills and knowledge relating to taxation.

Working visits referred to in point (a)(iv) of the first subparagraph shall not exceed one month. For working visits organised within third countries, only travel and subsistence (accommodation and daily allowance) costs shall be eligible under the programme.

Expert teams referred to in point (a)(v) of the first subparagraph shall be organised by the Commission in cooperation with the participating countries and, unless duly justified, shall not exceed one year.

2. The resources for the eligible actions referred to in this Article shall be allocated in a balanced manner and in proportion to the real needs of those actions.

3. When evaluating the programme, the Commission shall assess the need for introducing budgetary ceilings for the various eligible actions.

Article 8

Specific implementation provisions for joint actions

1. Participation in joint actions referred to in point (a) of the first subparagraph of Article 7(1) shall be on a voluntary basis.

2. Participating countries shall ensure that officials with an appropriate profile and qualifications, including language skills, are nominated to participate in the joint actions.

3. Participating countries shall, where appropriate, take the necessary measures to raise awareness of the joint actions and to ensure that use is made of the outputs generated.

Article 9

Specific implementation provisions for the European Information Systems

1. The Commission and the participating countries shall ensure that the European Information Systems referred to in point A of the Annex are developed, operated and appropriately maintained.

2. The Commission shall coordinate, in cooperation with the participating countries, those aspects of the establishment and functioning of the Union and non-Union components of the European Information Systems referred to in point A of the Annex which are necessary to ensure their operability, inter-connectivity and continuous improvement.

3. The use of the Union components of the European Information Systems referred to in point A of the Annex by non-participating countries shall be subject to agreements with those countries to be concluded in accordance with Article 218 of the Treaty on the Functioning of the European Union.

*Article 10***Specific implementation provisions for common training activities**

1. Participation in common training activities referred to in point (c) of the first subparagraph of Article 7(1) shall be on a voluntary basis.
2. Participating countries shall ensure that officials with an appropriate profile and qualifications, including language skills, are nominated to participate in the common training activities.
3. Participating countries shall integrate, where appropriate, jointly developed training content, including e-learning modules, training programmes and commonly agreed training standards into their national training programmes.

CHAPTER III

Financial framework*Article 11***Financial framework**

1. The financial envelope for the implementation of the programme shall be EUR 223 366 000 in current prices.
2. The financial allocation for the programme may also cover expenses pertaining to preparatory, monitoring, checking, audit and evaluation activities which are required on a regular basis for the management of the programme and the achievement of its objectives; in particular, studies, meetings of experts, information and communication activities related to the objectives laid down in this Regulation, expenses linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the programme.

The share of administrative expenditure shall, in general, not exceed 5 % of the overall cost of the programme.

*Article 12***Types of intervention**

1. The Commission shall implement the programme in accordance with Regulation (EU, Euratom) No 966/2012.
2. Union financial support for activities provided for in Article 7 shall take the form of:
 - (a) grants;
 - (b) public procurement contracts;
 - (c) the reimbursement of costs incurred by external experts referred to in Article 4.
3. The co-financing rate for grants shall be up to 100 % of the eligible costs in the case of travel and accommodation costs, costs linked to the organisation of events and daily allowances.

That rate shall apply to all eligible actions with the exception of expert teams referred to in point (a)(v) of the first subparagraph

of Article 7(1). The applicable co-financing rate for expert teams, where those actions require the awarding of grants, shall be set out in the annual work programmes.

4. The Union components of the European Information Systems shall be financed by the programme. Participating countries shall, in particular, bear the costs of the acquisition, development, installation, maintenance and day-to-day operation of the non-Union components of the European Information Systems.

*Article 13***Protection of the financial interests of the Union**

1. The Commission shall take appropriate measures to ensure that, where actions financed under this Regulation 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 unduly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.
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 Regulation (EC) No 1073/1999 of the European Parliament and of the Council⁽¹⁾ and Council Regulation (Euratom, EC) No 2185/96⁽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 under this Regulation.

CHAPTER IV

Implementing powers*Article 14***Work programme**

In order to implement the programme, the Commission shall, by means of implementing acts, adopt annual work programmes, which shall set out the objectives pursued, the expected results, the method of implementation and their total amount. They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action type and an indicative implementation timetable. The annual work programmes shall include for grants the priorities, the essential evaluation criteria and the maximum rate of co-financing. Those implementing acts shall be based on the results of previous years and shall be adopted in accordance with the examination procedure referred to in Article 15(2).

⁽¹⁾ Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 1).

⁽²⁾ 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).

*Article 15***Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER V

Monitoring and evaluation*Article 16***Monitoring of actions under the programme**

1. The Commission shall, in cooperation with the participating countries, monitor the programme and actions under it.
2. The Commission and participating countries shall establish qualitative and quantitative indicators and, where necessary, add new indicators during the course of the programme. The indicators shall be used to measure the effects of the programme against pre-defined baselines.
3. The Commission shall make public the outcome of the monitoring referred to in paragraph 1 and the indicators referred to in paragraph 2.
4. The outcome of the monitoring shall be used for the evaluation of the programme in accordance with Article 17.

*Article 17***Evaluation and review**

1. The Commission shall submit to the European Parliament and to the Council mid-term and final evaluation reports regarding the matters referred to in paragraphs 2 and 3. The results of those evaluations shall be integrated into decisions on possible renewal, modification or suspension of the programme for subsequent periods. Those evaluations shall be carried out by an independent external evaluator.

2. The Commission shall, by 30 June 2018, draw up a mid-term evaluation report on the achievement of the objectives of the actions under the programme, the efficiency of the use of resources and the added value at the European level of the programme. That report shall, additionally, address the simplification and the continued relevance of the objectives, as well as the contribution of the programme to the Union priorities of smart, sustainable and inclusive growth.

3. The Commission shall, by 31 December 2021, draw up a final evaluation report on the matters referred to in paragraph 2, and on the long-term impact and the sustainability of effects of the programme.

4. Upon request from the Commission, the participating countries shall provide it with all available data and information relevant for the purpose of contributing to its mid-term and final evaluation reports.

CHAPTER VI

Final provisions*Article 18***Repeal**

Decision No 1482/2007/EC is repealed with effect from 1 January 2014.

However, financial obligations related to actions pursued under that Decision shall continue to be governed by it until their completion.

*Article 19***Entry into force**

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

ANNEX

EUROPEAN INFORMATION SYSTEMS AND THEIR UNION COMPONENTS

A. The European Information Systems are the following:

- (1) the common communications network / common systems interface (CCN/CSI -CCN2), CCN mail3, the CSI bridge, the http bridge, CCN LDAP and related tools, CCN web portal, CCN monitoring;
- (2) supporting systems, in particular the application configuration tool for CCN, the activity reporting tool (ART2), Taxud electronic management of project online (TEMPO), service management tool (SMT), the user management system (UM), the BPM system, the availability dashboard and AvDB, IT service management portal, directory and user access management;
- (3) Programmes information and communication space (PICS);
- (4) the VAT-related systems, in particular, the VAT information exchange system (VIES) and the VAT refund, including the VIES initial application, the VIES monitoring tool, the Taxation statistical system, VIES-on-the-web, VIES-on-the-web configuration tool, the VIES and VAT refund test tools, the VAT number algorithms, the VAT exchange of e-forms, VAT on e-Services (VoeS); VoeS test tool, VAT e-forms test tool, mini one-stop-shop (MoSS);
- (5) recovery-related systems, in particular eforms for recovery of claims, eforms for uniform instrument permitting enforcement (UIPE) and for uniform notification form (UNF);
- (6) direct taxation-related systems, in particular taxation on savings system, taxation on savings test tool, e-forms for direct taxation, tax identification number TIN-on-the-web, the exchanges related to the Article 8 of Council Directive 2011/16/EU ⁽¹⁾ and associated test tools;
- (7) other taxation-related systems, in particular, the Taxes in Europe database (TEDB);
- (8) the excise systems, in particular the system for exchange of excise data (SEED), the Excise Movement and Control System (EMCS), MVS eforms, test application (TA);
- (9) other central systems, in particular, the Member States' Taxation Information and Communication system (TIC), the self-service testing system (SSTS), taxation-related statistics system, the central application for web forms, the central services / management information system for Excise (CS/MISE).

B. The Union components of the European Information Systems are:

- (1) IT assets such as the hardware, the software and the network connections of the systems, including the associated data infrastructure;
- (2) IT services necessary to support the development, the maintenance, the improvement and the operation of the systems; and
- (3) any other elements which, for reasons of efficiency, security and rationalisation, are identified by the Commission as common to participating countries.

⁽¹⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

**REGULATION (EU) No 1287/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC

(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 Articles 173 and 195 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Commission adopted a Communication entitled "Europe 2020 - A strategy for smart, sustainable and inclusive growth" in March 2010 ("the Europe 2020 Strategy"). The Communication was endorsed by the European Council of June 2010. The Europe 2020 Strategy responds to the economic crisis and is intended to prepare the Union for the next decade. It sets five ambitious objectives on climate and energy, employment, innovation, education and social inclusion to be reached by 2020, and identifies key drivers for growth aimed at making the Union more dynamic and competitive. It also emphasises the importance of reinforcing the growth of the European economy while delivering a high level of employment, a low-carbon, resource- and energy-efficient economy and social cohesion. Small and medium-sized enterprises (SMEs) should play a crucial role in reaching the Europe 2020 Strategy objectives. Their role is reflected by the fact that SMEs are mentioned in six out of seven of the flagship initiatives of the Europe 2020 Strategy.

(2) In order to ensure that enterprises, particularly SMEs, play a central role in delivering economic growth in

the Union, which is a top priority, the Commission adopted a Communication entitled "An Integrated industrial policy for the globalization era, putting competitiveness and sustainability at centre stage" in October 2010, which was endorsed by the Council of December 2010. This is a flagship initiative of the Europe 2020 Strategy. The Communication sets out a strategy aiming to boost growth and jobs by maintaining and supporting a strong, diversified and competitive industrial base in Europe, in particular by improving framework conditions for enterprises and strengthening several aspects of the internal market, including business-related services.

(3) In June 2008 the Commission adopted a Communication entitled "Think Small First - A "Small Business Act for Europe", which was welcomed by the Council of December 2008. The Small Business Act (SBA) provides a comprehensive policy framework for SMEs, promotes entrepreneurship and anchors the "Think Small First" principle in law and policy in order to strengthen the competitiveness of SMEs. The SBA establishes ten principles and outlines policy and legislative actions to promote SMEs' potential to grow and create jobs. Implementation of the SBA contributes to achieving the objectives of the Europe 2020 Strategy. Several actions for SMEs have already been set out in the flagship initiatives.

(4) The SBA has since been the subject of a review, published in February 2011, on the basis of which the Council on 30 and 31 May 2011 adopted conclusions. That review takes stock of the implementation of the SBA and assesses the needs of SMEs operating in the present economic environment, in which they find it increasingly difficult to obtain access to finance and to markets. It presents an overview of the progress made in the first two years of the SBA, sets out new actions to respond to challenges resulting from the economic crisis that stakeholders have reported, and proposes ways to improve the uptake and implementation of the SBA with a clear role for stakeholders and business organisations on the front-line. The specific objectives of a programme for the competitiveness of enterprises and SMEs should reflect the priorities set out in that review. It is important to ensure that the implementation of such a programme is coordinated with the implementation of the SBA.

In particular, actions under the specific objectives should contribute to fulfilling the above-mentioned ten principles and the new actions identified in the process of reviewing the SBA.

⁽¹⁾ OJ C 181, 21.6.2012, p. 125.

⁽²⁾ OJ C 391, 18.12.2012, p. 37.

- (5) Council Regulation (EU, Euratom) No 1311/2013 ⁽¹⁾ lays down the multiannual financial framework for the years 2014-2020. That multiannual financial framework describes how the policy goals of increasing growth and creating more jobs in Europe, and establishing a low-carbon and more environment-aware economy and internationally prominent Union will be achieved.
- (6) In order to contribute to the reinforcement of competitiveness and sustainability of Union enterprises, in particular SMEs, to support existing SMEs, to encourage an entrepreneurial culture and to promote the growth of SMEs, the advancement of the knowledge society, and development based on balanced economic growth, a programme for the competitiveness of enterprises and SMEs ("the COSME programme") should be established.
- (7) The COSME programme should give high priority to the simplification agenda, in accordance with the Commission Communication of 8 February 2012 entitled "A Simplification agenda for the MFF 2014-2020". The spending of Union and Member States' funds on the promotion of the competitiveness of enterprises and SMEs should be better coordinated in order to ensure complementarity, better efficiency and visibility, as well as to achieve greater budgetary synergies.
- (8) The Commission has committed itself to mainstreaming climate action into Union spending programmes and to direct at least 20 % of the Union budget to climate-related objectives. It is important to ensure that climate change mitigation and adaptation as well as risk prevention is promoted in the preparation, design and implementation of the COSME programme. Measures covered by this Regulation should contribute to promoting the transition to a low-carbon and climate-resilient economy and society.
- (9) It follows from Council Decision 2001/822/EC ⁽²⁾ that entities and bodies of the overseas countries and territories are eligible to participate in the COSME programme.
- (10) The competitiveness policy of the Union is intended to put into place the institutional and policy arrangements that create conditions for the sustainable growth of enterprises, particularly SMEs. Achieving competitiveness and sustainability entails the ability to attain and maintain the economic competitiveness and growth of enterprises in accordance with sustainable development objectives. Improved productivity, including resource and energy productivity, is the primary source of sustainable income growth. Competitiveness also depends on companies' ability to take full advantage of opportunities such as the internal market. This is especially important for SMEs, which account for 99 % of enterprises in the Union, provide two out of three existing jobs in the private sector, and 80 % of newly-created jobs, and contribute more than half of the total added value created by enterprises in the Union. SMEs are a key driver for economic growth, employment and social integration.
- (11) The Commission Communication of 18 April 2012 entitled "Towards a rich job recovery" estimated that policies promoting a transition to a green economy such as resource-efficiency, energy-efficiency, and climate change policies could generate more than five million jobs by 2020, and in particular in the SME sector. Bearing this in mind, specific actions under the COSME programme could include promoting the development of sustainable products, services, technologies and processes, as well as resource- and energy-efficiency and corporate social responsibility.
- (12) Competitiveness has been put under the spotlight of Union policy-making in recent years because of the market, policy and institutional failures that undermine the competitiveness of Union enterprises, particularly SMEs.
- (13) The COSME programme should therefore address market failures which affect the competitiveness of the Union economy on a global scale and which undermine the capacity of enterprises, particularly SMEs, to compete with their counterparts in other parts of the world.
- (14) The COSME programme should particularly address SMEs, as defined in Commission Recommendation 2003/361/EC ⁽³⁾. In the application of this Regulation, the Commission should consult all relevant stakeholders, including organisations representing SMEs. Particular attention should be paid to micro enterprises, enterprises engaged in craft activities, the self-employed, the liberal professions and social enterprises. Attention should also be paid to potential, new, young and female entrepreneurs, as well as to other specific target groups, such as older people, migrants and entrepreneurs belonging to socially disadvantaged or vulnerable groups such as persons with disabilities and to the promotion of business transfers, spin-offs, spin-outs and second chances for entrepreneurs.

⁽¹⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (See page 884 of this Official Journal).

⁽²⁾ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ('Overseas Association Decision') (OJ L 314, 30.11.2001, p. 1).

⁽³⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (15) Many of the Union's competitiveness problems involve SMEs' difficulties in obtaining access to finance because they struggle to demonstrate their credit-worthiness and have difficulties in gaining access to risk capital. Those difficulties have a negative effect on the level and quality of the new enterprises created and on the growth and survival rate of enterprises, as well as on the readiness of new entrepreneurs to take over viable companies in the context of a transfer of business/succession. Union financial instruments put in place under Decision No 1639/2006/EC of the European Parliament and of the Council ⁽¹⁾ have a proven added value and have brought a positive contribution to at least 220 000 SMEs. The enhanced added value for the Union of the proposed financial instruments lies, inter alia, in strengthening the internal market for venture capital and in developing a pan-European SME finance market as well as in addressing market failures that cannot be addressed by Member States. The Union's actions should be coherent, consistent and complementary to the Member States' financial instruments for SMEs, provide a leverage effect and avoid creating market distortion, in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²⁾. The entities entrusted with the implementation of the actions should ensure additionality and avoid double financing through Union resources.
- (16) The Commission should pay attention to the visibility of financing provided through the financial instruments of this Regulation so as to ensure that the availability of Union support is known and that the support provided is recognised in the market. To that end, there should also be an obligation for financial intermediaries to explicitly highlight to final recipients that financing was made possible through the support of the financial instruments under this Regulation. The Commission and the Member States should take adequate measures, including by means of user-friendly online systems, to disseminate information on the available financial instruments among SMEs and intermediaries. Those systems, which could include a single portal, should not duplicate existing systems.
- (17) The Enterprise Europe Network ("the Network") has proven its added value for European SMEs as a one-stop-shop for business support by helping enterprises to improve their competitiveness and explore business opportunities in the internal market and beyond. The streamlining of methodologies and working methods and provisions of a European dimension to business support services can only be achieved at Union level. In particular, the Network has helped SMEs to find cooperation or technology transfer partners in the internal market and third countries, obtain advice on sources of Union financing, on Union law and intellectual property and on Union programmes to encourage eco-innovation and sustainable production. It has also obtained feedback on Union law and standards. Its unique expertise is particularly important in overcoming information asymmetries and alleviating transaction costs associated with cross-border transactions.
- (18) A continued effort is needed to further optimise the quality of the services and performance of the Network, in particular with regard to SMEs' awareness and subsequent take-up of the services proposed, by further integrating internationalisation and innovation services, enhancing cooperation between the Network and regional and local SME stakeholders, consulting and better involving host organisations, reducing bureaucracy, improving IT support and enhancing the visibility of the Network and its services in the geographical regions covered.
- (19) The limited internationalisation of SMEs both within and outside Europe affects competitiveness. According to some estimates, currently 25 % of Union SMEs export or have exported at some point over the last three years, while only 13 % of Union SMEs export outside the Union on a regular basis and only 2 % have invested outside their home country. In addition, the 2012 Eurobarometer survey shows the untapped potential for SMEs' growth in green markets, within and outside the Union, in terms of internationalisation and access to public procurement. In line with the SBA, which called on the Union and the Member States to support and encourage SMEs to benefit from the growth of markets outside the Union, the Union provides financial assistance to several initiatives such as the EU Japan Centre for Industrial Cooperation and the China Intellectual Property Rights SME helpdesk. Union added value is created by promoting cooperation and by offering services at European level which complement but do not duplicate the core trade promotion services of Member States and which strengthen the combined efforts of public and private service providers in this field. Such services should include information on intellectual property rights, standards and public procurement rules and opportunities. Part II of the Council Conclusions of 6 December 2011, entitled "Reinforcing implementation of industrial policy across the EU", on the Commission Communication entitled "An Integrated industrial policy for the globalization era, putting competitiveness and sustainability at centre stage", should be fully taken into account. In that respect, a well-defined European cluster
- ⁽¹⁾ Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15).
- ⁽²⁾ 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).

strategy should complement national and regional efforts to encourage clusters towards excellence and international cooperation, taking into account the fact that the clustering of SMEs can be a key means of strengthening their capacity to innovate and to begin operating in overseas markets.

- (20) To improve the competitiveness of Union enterprises, particularly SMEs, the Member States and the Commission need to create a favourable business environment. The interests of SMEs and the sectors in which they are most active need particular attention. Initiatives at Union level are also necessary in order to exchange information and knowledge on a European scale, and digital services can be particularly cost-effective in this area. Such actions can help develop a level playing-field for SMEs.
- (21) The gaps, fragmentation and unnecessary red tape within the internal market prevent citizens, consumers and enterprises, particularly SMEs, from reaping its full benefits. Therefore a concerted effort on the part of Member States, the European Parliament, the Council and the Commission to address the implementation, legislative and information shortcomings is acutely necessary. In accordance with the principles of subsidiarity and proportionality, Member States, the European Parliament, the Council and the Commission should also collaborate to reduce and avoid unnecessary administrative and regulatory burdens on SMEs. Actions under the COSME programme - which is the sole Union programme that focuses specifically on SMEs - should contribute to the implementation of those aims, particularly by helping to improve the framework conditions for enterprises. Fitness checks and impact assessments financed under the COSME programme should play a role in this effort.
- (22) Another factor which affects competitiveness is the relatively weak entrepreneurial spirit in the Union. Only 45 % of Union citizens (and fewer than 40 % of women) would like to be self-employed as compared to 55 % of the population in the United States and 71 % in China (according to the 2009 Eurobarometer survey on entrepreneurship). According to the SBA, attention should be paid to all situations that entrepreneurs face, including start-up, growth, transfer and bankruptcy (second chance). Promotion of entrepreneurship education, as well as coherence and consistency enhancing measures such as benchmarking and exchanges of good practices provide a high Union added value.
- (23) The Erasmus for Young Entrepreneurs Programme was launched with a view to enabling new or aspiring entrepreneurs to gain business experience in a Member State other than their own and thus allow them to strengthen their entrepreneurial talents. In connection with the objective of improving the framework conditions for promoting entrepreneurship and entrepreneurial culture, the Commission should be able to take measures designed to help new entrepreneurs to improve their ability to develop their entrepreneurial know-how, skills and attitudes and to improve their technological capacity and enterprise management.
- (24) Global competition, demographic changes, resource constraints and emerging social trends generate challenges and opportunities for different sectors facing global challenges and characterised by a high proportion of SMEs. For example, design-based sectors need to adapt to benefit from the untapped potential of high demand for personalised, creative, inclusive products. As these challenges apply to all SMEs in the Union in these sectors, a concerted effort at Union level is necessary in order to create additional growth through initiatives accelerating the emergence of new products and services.
- (25) In support of action taken in Member States, the COSME programme may support initiatives in both sectoral and cross-sectoral areas with significant potential for growth and entrepreneurial activity, especially those with a high proportion of SMEs, accelerating the emergence of competitive and sustainable industries, based on the most competitive business models, improved products and processes, organisational structures or modified value chains. As outlined in the Commission Communication of 30 June 2010, entitled "Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe", which was welcomed by the Council in October 2010, tourism is an important sector of the Union economy. Enterprises in this sector directly contribute 5 % of the Union's gross domestic product (GDP). The Treaty on the Functioning of the European Union ("TFEU") acknowledges the importance of tourism and outlines the Union's competences in this field. The European tourism initiatives can complement Member State actions by encouraging the creation of a favourable environment and by promoting cooperation between Member States, particularly by the exchange of good practices. Actions can include improving the tourism knowledge base by providing data and analysis, and developing transnational cooperation projects in close cooperation with the Member States while avoiding mandatory requirements for Union enterprises.
- (26) The COSME programme indicates actions for the objectives, the total financial envelope for pursuing those objectives, a minimum financial envelope for financial instruments, different types of implementing measures, and transparent arrangements for monitoring and evaluation and for protection of the Union's financial interests.

- (27) The COSME programme complements other Union programmes, while acknowledging that each instrument should work according to its own specific procedures. Thus, the same eligible costs should not receive double funding. With the aim of achieving added value and substantial impact of Union funding, close synergies should be developed between the COSME programme, Regulation (EU) No 1291/2013 of the European Parliament and of the Council⁽¹⁾ ("the Horizon 2020 programme"), Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽²⁾ ("the Structural Funds") and other Union programmes.
- (28) The principles of transparency and equal gender opportunity should be taken into account in all relevant initiatives and actions covered by the COSME programme. Respect for human rights and fundamental freedoms for all citizens should be also considered in those initiatives and actions.
- (29) The provision of grants to SMEs should be preceded by a transparent process. The award of grants and their payment should be transparent, unbureaucratic and in accordance with common rules.
- (30) This Regulation lays down a financial envelope for the entire duration of the COSME programme which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽³⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (31) To ensure that financing is limited to tackling market, policy and institutional failures, and with a view to avoiding market distortions, funding from the COSME programme should comply with the State aid rules of the Union.
- (32) The Agreement on the European Economic Area and Protocols to Association Agreements provide for the participation of the countries concerned in Union programmes. Participation by other third countries should be possible when agreements and procedures so indicate.
- (33) It is important to ensure the sound financial management of the COSME programme and its implementation in the most effective and user-friendly manner possible, while also ensuring legal certainty and the accessibility of the COSME programme to all participants.
- (34) The COSME programme should be monitored and evaluated so as to allow for adjustments. A yearly report on its implementation should be made, presenting the progress achieved and the activities planned.
- (35) The implementation of the COSME programme should be monitored annually with the aid of key indicators for assessing results and impacts. These indicators, including relevant baselines, should provide the minimum basis for assessing the extent to which the objectives of the COSME programme have been achieved.
- (36) The interim report on the achievement of the objective of all actions supported under the COSME programme prepared by the Commission should also include an evaluation of low participation rates of SMEs, when this is identified in a significant number of Member States. Where appropriate, Member States could take the results of the interim report into account in their respective policies.
- (37) 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.
- (38) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission, to adopt annual work programmes for the implementation of the COSME programme. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁴⁾. Some of the actions included in the annual work programme involve the co-ordination of actions at national level. In that connection, Article 5(4) of that Regulation should apply.
- (39) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of additions to the indicators, changes to certain specific details regarding the financial instruments and modifications to the indicative amounts that would exceed those amounts by more than 5 % of the value of the financial envelope in each case. It is of particular

⁽¹⁾ Regulation (EU) No 1291/2013 of the European Parliament and 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 (See page 104 of this Official Journal).

⁽²⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

⁽³⁾ OJ C 373, 20.12.2013, p. 1

⁽⁴⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (40) For reasons of legal certainty and clarity, Decision No 1639/2006/EC should be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

Subject matter

Article 1

Establishment

A programme for Union actions to improve the competitiveness of enterprises, with special emphasis on small and medium-sized enterprises (SMEs) ("the COSME programme"), is hereby established for the period from 1 January 2014 to 31 December 2020.

Article 2

Definition

For the purposes of this Regulation, "SMEs" shall mean micro, small and medium-sized enterprises, as defined in Recommendation 2003/361/EC.

Article 3

General objectives

1. The COSME programme shall contribute to the following general objectives, paying particular attention to the specific needs of SMEs established in the Union and of SMEs established in third countries participating in the COSME programme pursuant to Article 6:

- (a) strengthening the competitiveness and sustainability of the Union's enterprises, particularly SMEs;
 - (b) encouraging entrepreneurial culture and promoting the creation and growth of SMEs.
2. The achievement of the objectives referred to in paragraph 1 shall be measured by the following indicators:
- (a) performance of SMEs as regards sustainability;
 - (b) changes in unnecessary administrative and regulatory burdens on both new and existing SMEs;
 - (c) changes in the proportion of SMEs exporting within or outside the Union;
 - (d) changes in SME growth;

- (e) changes in the proportion of Union citizens who wish to be self-employed.

3. A detailed list of indicators and targets for the COSME programme is set out in the Annex.

4. The COSME programme shall support the implementation of the Europe 2020 Strategy and shall contribute to achieving the objective of smart, sustainable and inclusive growth. In particular, the COSME programme shall contribute to the headline target concerning employment.

CHAPTER II

Specific objectives and fields of action

Article 4

Specific objectives

1. The specific objectives of the COSME programme shall be:
- (a) to improve access to finance for SMEs in the form of equity and debt;
 - (b) to improve access to markets, particularly inside the Union but also at global level;
 - (c) to improve framework conditions for the competitiveness and sustainability of Union enterprises, particularly SMEs, including in the tourism sector;
 - (d) to promote entrepreneurship and entrepreneurial culture.
2. The need of enterprises to adapt to a low-emission, climate-resilient, resource- and energy-efficient economy shall be promoted in the implementation of the COSME programme.
3. To measure the impact of the COSME programme in achieving the specific objectives referred to in paragraph 1, the indicators set out in the Annex shall be used.
4. The annual work programmes referred to in Article 13 shall specify in detail all the actions to be implemented under the COSME programme.

Article 5

Budget

1. The financial envelope for the implementation of the COSME programme is set at EUR 2 298,243 million in current prices, of which no less than 60 % shall be allocated to financial instruments.

The annual appropriations shall be authorised by the European Parliament and by the Council within the limits of the multi-annual financial framework.

2. The financial envelope established under this Regulation may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the COSME programme and the achievement of its objectives. In particular it shall cover, in a cost effective manner, studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the Union as far as they

are related to the general objectives of the COSME programme, expenses linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission in the management of the COSME programme.

Those expenses shall not exceed 5 % of the value of the financial envelope.

3. The financial envelope for the COSME programme shall allocate the indicative amounts of 21,5 % of the value of the financial envelope to the specific objective referred to in Article 4(1)(b), 11 % to the specific objective referred to in Article 4(1)(c) and 2,5 % to the specific objective referred to in Article 4(1)(d). The Commission may depart from these indicative amounts but not by more than 5 % of the value of the financial envelope in each case. Should it prove necessary to exceed that limit, the Commission shall be empowered to adopt delegated acts in accordance with Article 23 modifying those indicative amounts.

4. The financial allocation may also cover the technical and administrative assistance expenses necessary to ensure the transition between the COSME programme and the measures adopted under Decision No 1639/2006/EC. If necessary, appropriations may be entered in the budget beyond 2020 to cover similar expenses, in order to enable the management of actions not yet completed by 31 December 2020.

Article 6

Participation of third countries

1. The COSME programme shall be open to the participation of:

(a) European Free Trade Association (EFTA) countries which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA Agreement, and other European countries when agreements and procedures so allow;

(b) acceding countries, candidate countries and potential candidates in accordance with the general principles and general terms and conditions for the participation of those countries in the Union's programmes established in the respective Framework Agreements and Association Council Decisions, or similar arrangements;

(c) countries falling within the scope of the European neighbourhood policies, when agreements and procedures so allow and in accordance with the general principles and general terms and conditions for the participation of those countries in the Union's programmes established in the respective Framework Agreements, Protocols to Association Agreements and Association Council Decisions.

2. An entity established in a country referred to in paragraph 1 may participate in parts of the COSME programme where that country participates under the conditions laid out in the respective agreements described in paragraph 1.

Article 7

Participation of entities of non-participating countries

1. In parts of the COSME programme in which a third country referred to in Article 6 does not participate, entities established in that country may participate. Entities established in other third countries may also participate in actions under the COSME programme.

2. The entities referred to in paragraph 1 shall not be entitled to receive Union financial contributions, except where it is essential for the COSME programme, in particular in terms of competitiveness and access to markets for Union enterprises. That exception shall not apply to profit-making entities.

Article 8

Actions to improve access to finance for SMEs

1. The Commission shall support actions which aim to facilitate and improve access to finance for SMEs in their start-up, growth and transfer phases, being complementary to the Member States' use of financial instruments for SMEs at national and regional level. In order to ensure complementarity, such actions shall be closely coordinated with those undertaken in the framework of cohesion policy, the Horizon 2020 programme and at national or regional level. Such actions shall aim to stimulate the take-up and supply of both equity and debt finance, which may include seed funding, angel funding and quasi-equity financing subject to market demand but excluding asset stripping.

2. In addition to the actions referred to in paragraph 1, Union support may also be given to actions to improve cross-border and multi-country financing, subject to market demand, thereby assisting SMEs to internationalise their activities in compliance with Union law.

The Commission may also examine the possibility of developing innovative financial mechanisms, such as crowdfunding, subject to market demand.

3. Details of the actions referred to in paragraph 1 are laid down in Article 17.

Article 9

Actions to improve access to markets

1. To continue improving the competitiveness and access to markets of Union enterprises, the Commission may support actions to improve SME access to the internal market, such as information provision (including through digital services) and awareness-raising in relation to, among others, Union programmes, law and standards.

2. Specific measures shall aim to facilitate SME access to markets outside the Union. Such measures may include providing information on existing barriers to market entry and business opportunities, public procurement and customs procedures, and improving support services in terms of standards and intellectual property rights in priority third countries. Those measures shall complement but not duplicate the core trade promotion activities of Member States.

3. Actions under the COSME programme may aim to foster international cooperation, including industrial and regulatory dialogues with third countries. Specific measures may aim to reduce differences between the Union and other countries in terms of regulatory frameworks for products, to contribute to the development of enterprise and industrial policy and to contribute to the improvement of the business environment.

Article 10

Enterprise Europe Network

1. The Commission shall support the Enterprise Europe Network ("the Network") to provide integrated business support services to Union SMEs that seek to explore opportunities in the internal market and in third countries. Actions undertaken through the Network may include the following:

- (a) provision of information and advisory services on Union initiatives and law; support for the enhancement of management capacities to increase the competitiveness of SMEs; support aimed at improving SMEs' financial knowledge, including information and advisory services on funding opportunities, access to finance and related coaching and mentoring schemes; measures to increase SME access to energy efficiency, climate and environmental expertise; and promotion of Union funding programmes and financial instruments (including the Horizon 2020 programme in cooperation with national contact points and the Structural Funds);
- (b) facilitation of cross-border business cooperation, R&D, technology and knowledge transfer and technology and innovation partnerships;
- (c) provision of a communication channel between SMEs and the Commission.

2. The Network may also be used to deliver services on behalf of other Union programmes such as the Horizon 2020 programme, including dedicated advisory services encouraging SME participation in other Union programmes. The Commission shall ensure that the various financial resources for the Network are coordinated efficiently and that services delivered by the Network on behalf of other Union programmes are funded by those programmes.

3. Implementation of the Network shall be closely coordinated with the Member States to avoid duplication of activities in accordance with the principle of subsidiarity.

The Commission shall assess the Network in terms of its effectiveness, governance and provisions of high-quality services across the Union.

Article 11

Actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises, particularly SMEs

1. The Commission shall support actions to improve the framework conditions for the competitiveness and sustainability of Union enterprises, particularly SMEs, so as to enhance the effectiveness, coherence, coordination and consistency of national and regional policies promoting the competitiveness, sustainability and growth of Union enterprises.

2. The Commission may support specific actions to improve the framework conditions for enterprises, particularly SMEs, through a reduction in and avoidance of unnecessary administrative and regulatory burdens. Such actions may include measuring on a regular basis the impact of relevant Union law on SMEs, where appropriate by means of a scoreboard, support for independent expert groups and the exchange of information and good practices, including on the systematic application of the SME test at Union and Member State level.

3. The Commission may support actions intended to develop new competitiveness and business development strategies. Such actions may include the following:

- (a) measures to improve the design, implementation and evaluation of policies affecting the competitiveness and sustainability of enterprises, including through the sharing of good practices on framework conditions and on the management of world-class clusters and business networks; and through promoting transnational collaboration among clusters and business networks, the development of sustainable products, services, technologies and processes, as well as resource- and energy-efficiency and corporate social responsibility;
- (b) measures to address international aspects of competitiveness policies, focusing particularly on policy cooperation between Member States, other countries participating in the COSME programme and the Union's global trade partners;
- (c) measures to improve SME policy development, cooperation between policy makers, peer reviews and exchange of good practices among Member States, taking into account, where appropriate, available evidence and the views of stakeholders and particularly with a view to making it easier for SMEs to access Union programmes and measures, in accordance with the SBA Action Plan.

4. The Commission may, through promoting coordination, support actions taken in the Member States with a view to accelerating the emergence of competitive industries with market potential. Such support may include actions to promote the exchange of good practices and identifying skills and training requirements from industries, especially SMEs, in particular e-skills. It may also include actions to encourage the take-up of new business models and the cooperation of SMEs in new value chains as well as the commercial use of relevant ideas for new products and services.

5. The Commission may complement the actions of Member States to enhance the competitiveness and sustainability of Union SMEs in areas characterised by a significant growth potential, especially those with a high proportion of SMEs, such as the tourism sector. Such activities may include promoting cooperation between Member States, particularly through the exchange of good practices.

Article 12

Actions to promote entrepreneurship

1. The Commission shall contribute to promoting entrepreneurship and entrepreneurial culture by improving framework conditions affecting the development of entrepreneurship, including by reducing obstacles to the setting-up of enterprises. The Commission shall support a business environment and culture favourable to sustainable enterprises, start-ups, growth, business transfer, second chance (re-start), as well as spin-offs and spin-outs.

2. Particular attention shall be paid to potential, new, young, and female entrepreneurs, as well as other specific target groups;

3. The Commission may take actions such as mobility programmes for new entrepreneurs to improve their ability to develop their entrepreneurial know-how, skills and attitudes and to improve their technological capacity and enterprise management.

4. The Commission may support Member States' measures to build and facilitate entrepreneurial education, training, skills and attitudes, in particular among potential and new entrepreneurs.

CHAPTER III

Implementation of the COSME programme

Article 13

Annual work programmes

1. In order to implement the COSME programme, the Commission shall adopt annual work programmes in accordance with the examination procedure referred to in Article 21(2). Each annual work programme shall implement the objectives set out in this Regulation and shall set out in detail:

- (a) a description of the actions to be financed, the objectives pursued for each action, which shall be in accordance with the general and specific objectives laid down in Articles 3 and 4, the expected results, the method of implementation, an indication of the amount allocated to each action, a total amount for all actions and an indicative implementation timetable and payment profile;
- (b) appropriate qualitative and quantitative indicators for each action, for the purpose of analysing and monitoring effectiveness in delivering outcomes and achieving the objectives of the action concerned;
- (c) for grants and related measures, the essential evaluation criteria, which shall be set so as best to achieve the objectives pursued by the COSME programme, and the maximum rate of co-financing;
- (d) a separate detailed chapter on the financial instruments which shall, in accordance with Article 17 of this Regulation, reflect the information obligations under Regulation (EU, Euratom) No 966/2012, including the expected apportionment of the financial envelope between the Equity Facility for Growth and the Loan Guarantee Facility referred to in Articles 18 and 19 of this Regulation respectively, and information such as the level of guarantee and the relationship with the Horizon 2020 programme.

2. The Commission shall implement the COSME programme in accordance with Regulation (EU, Euratom) No 966/2012.

3. The COSME programme shall be implemented so as to ensure that actions supported take account of future developments and needs, particularly after the interim evaluation referred to in Article 15(3), and that they are relevant to evolving markets, the economy and changes in society.

Article 14

Support measures

1. In addition to the measures covered by the annual work programmes referred to in Article 13, the Commission shall regularly take support measures, including the following:

- (a) improvement of the analysis and monitoring of sectoral and cross-sectoral competitiveness issues;
- (b) the identification and dissemination of good practices and policy approaches, and their further development;
- (c) fitness checks of existing law and impact assessments of new Union measures that are of particular relevance to the competitiveness of enterprises, with a view to identifying areas of existing law that need to be simplified and ensuring that burdens on SMEs are minimised in areas in which new legislative measures are proposed;

(d) the evaluation of legislation affecting enterprises, particularly SMEs, industrial policy and competitiveness-related measures;

(e) the promotion of integrated and user-friendly online systems that provide information on programmes relevant for SMEs, whilst ensuring that they do not duplicate existing portals.

2. The total cost of these support measures shall not exceed 2,5 % of the COSME programme's financial envelope.

Article 15

Monitoring and evaluation

1. The Commission shall monitor the implementation and management of the COSME programme.

2. The Commission shall draw up an annual monitoring report examining the efficiency and effectiveness of supported actions in terms of financial implementation, results, costs and, where possible, impact. The report shall include information on beneficiaries, when possible, for each call for proposals, information on the amount of climate-related expenditure and the impact of support to climate-change objectives, relevant data regarding the loans provided by the Loan Guarantee Facility above and below EUR 150 000 to the extent that the collection of such information does not create an unjustified administrative burden for enterprises, especially SMEs. The monitoring report shall include the annual report on each financial instrument as required by Article 140(8) of Regulation (EU, Euratom) No 966/2012.

3. By 2018 at the latest, the Commission shall establish an interim evaluation report on the achievement of the objectives of all the actions supported under the COSME programme at the level of results and impacts, the efficiency of the use of resources and its European added value, with a view to a decision on the renewal, modification or suspension of the measures. The interim evaluation report shall also address the scope for simplification, its internal and external coherence, the continued relevance of all objectives, as well as the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth. It shall take into account evaluation results on the long-term impact of the predecessor measures and shall feed into a decision on a possible renewal, modification or suspension of a subsequent measure.

4. The Commission shall establish a final evaluation report on the longer-term impact and sustainability of effects of the measures.

5. All grant beneficiaries and other parties involved who have received Union funds under this Regulation shall provide the Commission with the appropriate data and information necessary to permit the monitoring and evaluation of the measures concerned.

6. The Commission shall submit the reports referred to in paragraphs 2, 3 and 4 to the European Parliament and the Council and make them public.

CHAPTER IV

Financial provisions and forms of financial assistance

Article 16

Forms of financial assistance

The Union's financial assistance under the COSME programme may be implemented indirectly by delegating budget implementation tasks to the entities listed in Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012.

Article 17

Financial instruments

1. Financial instruments under the COSME programme set up in accordance with Title VIII of Regulation (EU, Euratom) No 966/2012 shall be operated with the aim of facilitating access to finance for SMEs, in their start-up, growth and transfer phases. The financial instruments shall include an equity facility and a loan guarantee facility. The allocation of funds to those facilities shall take into account the demand from financial intermediaries.

2. The financial instruments for SMEs may, where appropriate, be combined with and complement:

(a) other financial instruments established by Member States and their managing authorities funded by national or regional funds or funded in the context of the operations of the Structural Funds, in accordance with Article 38(1)(a) of Regulation (EU) No 1303/2013;

(b) other financial instruments established by Member States and their managing authorities funded by national or regional programmes outside the operations of the Structural Funds;

(c) grants funded by the Union, including under this Regulation.

3. The Equity Facility for Growth and the Loan Guarantee Facility referred to in Articles 18 and 19 respectively may be complementary to the Member States' use of financial instruments for SMEs within the framework of Union cohesion policy.

4. The Equity Facility for Growth and the Loan Guarantee Facility may, where appropriate, allow the pooling of financial resources with Member States and/or regions willing to contribute part of the Structural Funds allocated to them in accordance with Article 38(1)(a) of Regulation (EU) No 1303/2013.

5. The financial instruments may generate acceptable returns to meet the objectives of other partners or investors. The Equity Facility for Growth may operate on a subordinated basis but shall aim to preserve the value of assets provided by the Union budget.

6. The Equity Facility for Growth and the Loan Guarantee Facility shall be implemented in accordance with Title VIII of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU, Euratom) No 1268/2012 ⁽¹⁾.

7. The financial instruments under the COSME programme shall be developed and implemented in complementarity and coherence with those established for SMEs under the Horizon 2020 programme.

8. In accordance with Article 60(1) of Regulation (EU, Euratom) No 966/2012, the entities entrusted with the implementation of the financial instruments shall ensure visibility of Union action when they manage Union funds. To this end, the entrusted entity shall ensure that financial intermediaries explicitly inform final recipients that financing was made possible through the support of the financial instruments under the COSME programme. The Commission shall ensure that the ex post publication of information on recipients in accordance with Article 60(2)(e) of Regulation (EU, Euratom) No 966/2012 is easily accessible to potential final recipients.

9. Repayments generated by the second window of the High Growth and Innovative SME Facility established under Decision No 1639/2006/EC and received after 31 December 2013 shall be assigned, in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012, to the Equity Facility for Growth referred to in Article 18 of this Regulation.

10. The financial instruments shall be implemented in compliance with the relevant State aid rules of the Union.

Article 18

Equity Facility for Growth

1. The Equity Facility for Growth (EFG) shall be implemented as a window of a single Union equity financial instrument supporting Union enterprises' growth and research and innovation (R&I) from the early stage, including seed, up to the growth stage. The single Union equity financial instrument shall be financially supported by the Horizon 2020 programme and the COSME programme.

2. The EFG shall focus on funds that provide: venture capital and mezzanine finance, such as subordinated and participating loans, to expansion and growth-stage enterprises, in particular those operating across borders, while having the possibility of making investments in early-stage funds in conjunction with the Equity Facility for R&I under the Horizon 2020 programme and providing co-investment facilities for business angels. In the case

of early stage investments, the investment from EFG shall not exceed 20 % of the total Union investment except in cases of multi-stage funds and funds-of-funds, where funding from the EFG and the Equity Facility for R&I under the Horizon 2020 programme shall be provided on a pro rata basis, on the basis of the funds' investment policy. The Commission may decide to amend the 20 % threshold in the light of changing market conditions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).

3. The EFG and the Equity Facility for R&I under the Horizon 2020 programme shall use the same delivery mechanism.

4. Support from the EFG shall be in the form of one of the following investments:

- (a) directly by the European Investment Fund or other entities entrusted with the implementation of the EFG on behalf of the Commission; or
- (b) by funds-of-funds or investment vehicles investing across borders established by the European Investment Fund or other entities (including private or public sector managers) entrusted with the implementation of the EFG on behalf of the Commission together with investors from private and/or public financial institutions.

5. The EFG shall invest in intermediary risk capital funds including in funds-of-funds, providing investments for SMEs typically in their expansion and growth-stage. Investments under the EFG shall be long-term, i.e. usually involving 5 to 15 year positions in risk capital funds. In any event, the lifetime of the investments under the EFG shall not exceed 20 years from the time of signature of the agreement between the Commission and the entity entrusted with its implementation.

Article 19

The Loan Guarantee Facility

1. The Loan Guarantee Facility (LGF) shall provide:

- (a) counter-guarantees and other risk sharing arrangements for guarantee schemes including, where appropriate, co-guarantees;
- (b) direct guarantees and other risk sharing arrangements for any other financial intermediaries meeting the eligibility criteria referred to in paragraph 5.

⁽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).

2. The LGF shall be implemented as part of a single Union debt financial instrument for Union enterprises' growth and R&I, using the same delivery mechanism as the SME demand-driven window of the Debt Facility for R&I under the Horizon 2020 programme (RSI II).

3. The LGF shall consist of:

(a) guarantees for debt financing (including via subordinated and participating loans, leasing, or bank guarantees), which shall reduce the particular difficulties that viable SMEs face in accessing finance, either due to their perceived high risk or their lack of sufficient available collateral;

(b) securitisation of SME debt finance portfolios, which shall mobilise additional debt financing for SMEs under appropriate risk-sharing arrangements with the targeted institutions. Support for those securitisation transactions shall be conditional upon an undertaking by the originating institutions to use a significant part of the resulting liquidity or the mobilised capital for new SME lending within a reasonable period of time. The amount of this new debt financing shall be calculated in relation to the amount of the guaranteed portfolio risk. This amount and the period of time shall be negotiated individually with each originating institution.

4. The LGF shall be operated by the European Investment Fund or other entities entrusted with the implementation of the LGF on behalf of the Commission. Individual guarantees under the LGF may have a maturity of up to 10 years.

5. Eligibility under the LGF shall be determined for each intermediary on the basis of their activities and how effective they are in helping SME in accessing funding for viable projects. The LGF may be used by intermediaries supporting business in financing, inter alia, acquisition of tangible and intangible assets, working capital and for business transfers. Criteria relating to securitisation of SME debt financing portfolios shall include individual and multi-seller transactions as well as multi-country transactions. Eligibility shall be based on good market practices, in particular regarding the credit quality and risk diversification of the securitised portfolio.

6. The LGF shall, except for loans in the securitised portfolio, cover loans up to EUR 150 000 and with a minimum maturity of 12 months. The LGF shall also cover loans above EUR 150 000 in cases where SMEs who meet the criteria to be eligible under the COSME programme do not meet the criteria to be eligible under the SME window in the Debt Facility of the Horizon 2020 programme, and with a minimum maturity of 12 months.

Above that threshold, it shall be the responsibility of the financial intermediaries to demonstrate whether the SME is eligible or not under the SME window in the Debt Facility of the Horizon 2020 programme.

7. The LGF shall be designed in such way as to make it possible to report on SMEs supported, both in terms of number and volume of loans.

Article 20

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation 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 unduly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot checks, over all grant beneficiaries, contractors and subcontractors and other third parties who have received Union funds under this Regulation.

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 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁾ and Council Regulation (Euratom, EC) No 2185/96⁽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 under this Regulation.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

⁽¹⁾ 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⁾ 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).

CHAPTER V

Committee and final provisions

Article 21

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 22

Delegated acts

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 concerning additions to the indicators set out in the Annex where those indicators could help measure the progress in achieving the COSME programme's general and specific objectives.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 concerning changes to some specific details regarding the financial instruments. Those details are the share of investment from the EFG of the total Union investment in early stage venture capital funds and the composition of the securitised loan portfolios.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 concerning modifications to the indicative amounts specified in Article 5(3) that would exceed those amounts by more than 5 % of the value of the financial envelope in each case, should it prove necessary to exceed that limit.

Article 23

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 22 shall be conferred on the Commission for a period of seven years from 23 December 2013.

3. The delegation of power referred to in Article 22 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 22 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months following the notification of that act to the European Parliament and the Council or if before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 24

Repeal and transitional provisions

1. Decision No 1639/2006/EC is repealed with effect from 1 January 2014.

2. However, actions initiated under Decision No 1639/2006/EC and financial obligations related to those actions shall continue to be governed by that Decision until their completion.

3. The financial allocation referred to in Article 5 may also cover the technical and administrative assistance expenses necessary to ensure the transition between the COSME programme and the measures adopted under Decision No 1639/2006/EC.

Article 25

Entry into force

This Regulation shall enter into force on the third day following 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 Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

ANNEX

INDICATORS FOR GENERAL AND SPECIFIC OBJECTIVES AND TARGETS

General objective:	1. To strengthen the competitiveness and sustainability of the Union's enterprises, particularly SMEs	
A. Impact indicator ⁽¹⁾	Current situation	Long term target and milestone (2020)
A.1. Performance of SMEs as regards sustainability	Will be measured in on a regular basis, for example by means of a Eurobarometer survey	Increase in the proportion of Union SME producing green, i.e. environmentally friendly, products ⁽²⁾ compared to baseline (initial measurement)
A.2. Changes in unnecessary administrative and regulatory burden on both new and existing SMEs ⁽³⁾	Number of days to set up new SME in 2012: 5,4 working days	Marked reduction in number of days to set-up a new SME
	Cost of start-up in 2012: EUR 372	Marked reduction in the average start-up costs in the Union compared to baseline
	Number of Member States where the time needed to get licences and permits (including environmental permits) to take up and perform the specific activity of an enterprise is one month: 2	Marked increase in the number of Member States where the time needed to get licences and permits (including environmental permits) to take up and perform the specific activity of an enterprise is one month
	Number of Member States with a one-stop shop for business start-ups so that entrepreneurs can carry out all the required procedures (e.g. registration, tax, VAT and social security) via a single administrative contact point, whether physical (an office), virtual (web), or both in 2009: 18	Marked increase in the number of Member States with a one-stop shop for business start-ups
A.3. Changes in the proportion of SMEs exporting within or outside the Union	25 % of SMEs export and 13 % of SMEs export outside the Union (2009) ⁽⁴⁾	Increase in the proportion of SMEs exporting and increase in the proportion of SMEs exporting outside the Union compared to baseline
General objective:	2. To encourage an entrepreneurial culture and promote the creation and growth of SMEs	
Impact indicator	Current situation	Long term target and milestone (2020)
B.1. Changes in SME growth	In 2010 SMEs provided more than 58 % of total Union Gross Value Added	Increase of SME output (value added) and employees compared to baseline
	Total number of employees in SMEs in 2010: 87,5 million (67 % of private sector jobs in the Union)	
B.2. Changes in the proportion of Union citizens who wish to be self-employed	This figure is measured every two or three year by a Eurobarometer survey. The latest figure available is 37 % in 2012 (45 % in 2007 and 2009)	Increase in the proportion of Union citizens that would like to be self-employed compared to baseline

Specific objective:	To improve access to finance for SMEs in the form of equity and debt	
C. Financial instruments for growth	Latest known result (baseline)	Long term target (2020)
C.1. Number of firms benefiting from debt financing	As of 31 December 2012 EUR 13,4 billion in financing mobilised, reaching 219 000 SMEs (SME Guarantee (SMEG) Facility)	Value of financing mobilised ranging from EUR 14,3 billion to EUR 21,5 billion; number of firms receiving financing which benefit from guarantees from the COSME programme ranging from 220 000 to 330 000
C.2. Number of venture capital investments from the COSME programme and overall volume invested	As of 31 December 2012 EUR 2,3 billion in venture capital funding mobilised to 289 SMEs (High Growth and Innovative SME Facility, GIF)	Overall value of venture capital investments ranging from EUR 2,6 billion to EUR 3,9 billion; number of firms receiving venture capital investments from the COSME programme ranging from 360 to 540
C.3. Leverage ratio	Leverage ratio for the SMEG Facility 1:32 Leverage ratio for GIF 1:6,7	Debt instrument 1:20 - 1:30 Equity instrument 1:4 - 1:6 (5)
C.4. Additionality of the EFG and LGF	Additionality of the SMEG Facility: 64 % of final beneficiaries indicated that support was crucial to find the finance they needed Additionality of the GIF: 62 % of GIF final beneficiaries indicated that support was crucial to find the finance they needed	Increase in the proportion of final beneficiaries that consider the EFG or the LGF to provide funding that could not have been obtained by other means compared to baseline
Specific objective:	To improve access to markets, particularly inside the Union but also at global level	
D. International Industrial Cooperation	Latest known result (baseline)	Long term target (2020)
D.1. Number of cases of improved alignment between Union and third countries' regulations for industrial products	It is estimated that in regulatory co-operation with main trading partners (US, Japan, China, Brazil, Russia, Canada, India) there is an average of 2 relevant areas of significant alignment of technical regulations	4 relevant areas of significant alignment of technical regulations with main trading partners (US, Japan, China, Brazil, Russia, Canada, India)
E. Enterprise Europe Network	Latest known result (baseline)	Long term target (2020)
E.1. Number of partnership agreements signed	Partnership agreements signed: 2 475 (2012)	Partnership agreements signed: 2 500/year
E.2. Recognition of the Network amongst SME population	Recognition of the Network amongst SME population will be measured in 2015	Increase in the recognition of the Network amongst SME population compared to baseline
E.3. Client satisfaction rate (% SMEs stating satisfaction, added-value of specific service provided by the Network)	Client satisfaction rate (% SMEs stating satisfaction, added-value of specific service): 78 %	Client satisfaction rate (% SMEs stating satisfaction, added-value of specific service): > 82 %
E.4. Number of SMEs receiving support services	Number of SMEs receiving support services: 435 000 (2011)	Number of SMEs receiving support services: 500 000/year
E.5. Number of SMEs using digital services (including electronic information services) provided by the Network	2 million SMEs per year using digital services	2,3 million SMEs per year using digital services

Specific objective:	To improve framework conditions for the competitiveness and sustainability of Union enterprises, particularly SMEs, including in the tourism sector	
F. Activities to improve competitiveness	Latest known result (baseline)	Long term target (2020)
F.1. Number of simplification measures adopted	5 simplification measures per year (2010)	At least 7 simplification measures per year
F.2. Making the regulatory framework fit for purpose	Fitness checks have been launched since 2010. The only relevant fitness check so far is the on-going pilot project regarding "type approval for motor vehicles"	Up to 5 fitness checks to be launched over the course of the COSME programme
F.3. Number of Member States using the competitiveness proofing test	Number of Member States using the competitiveness proofing test: 0	Marked increase in the number of Member States using the competitiveness proofing test
F.4. Resource efficiency (which may include energy, materials or water, recycling, etc.) actions taken by SMEs	Will be measured on a regular basis, for example by means of a Eurobarometer survey	Increase in the proportion of Union SMEs that are taking at least one action to be more resource efficient (which may include energy, materials or water, recycling, etc.) compared to baseline (initial measurement) Increase in the proportion of Union SMEs that are planning to implement additional resource efficiency actions (which may include energy, materials or water, recycling, etc.) every two years compared to baseline (initial measurement)
G. Developing SME policy	Latest known result (baseline)	Long term target (2020)
G.1. Number of Member States using SME test	Number of Member States using SME test: 15	Marked increase in the number of Member States using SME test
Specific objective:	To improve framework conditions for the competitiveness and sustainability of Union enterprises, particularly SMEs, including in the tourism sector	
H. Tourism	Latest known result (baseline)	Long term target (2020)
H.1. Participation in transnational cooperation projects	Three countries covered per project in 2011	Increase in the number of Member States participating in transnational cooperation projects funded by the COSME Programme compared to baseline
H.2. Number of destinations adopting the sustainable tourism development models promoted by the European Destinations of Excellence	Number of European Destinations of Excellence awarded in total: 98 (on average 20 per year – in 2007-10, in 2008-20, in 2009-22, in 2010-25, in 2011-21)	More than 200 destinations adopting the sustainable tourism development models promoted by the European Destinations of Excellence (about 20 every year)
I. New Business Concepts	Latest known result (baseline)	Long term target (2020)
I.1. Number of new products/services in the market	Will be measured on a regular basis (So far this activity was restricted to analytical work of limited scale)	Increase in the cumulative number of new products/services compared to baseline (initial measurement)

Specific objective:	To promote entrepreneurship and entrepreneurial culture	
J. Support for entrepreneurship	Latest known result (baseline)	Long term target (2020)
J.1. Number of Member States implementing entrepreneurship solutions based on good practice identified through the programme	Number of Member States implementing entrepreneurship solutions: 22 (2010)	Marked increase in the number of Member States implementing entrepreneurship solutions
J.2. Number of Member States implementing entrepreneurship solutions targeting potential, young, new and female entrepreneurs, as well as other specific target groups	Currently, 12 Member States participate in the European Network of Mentors for Women Entrepreneurs. Currently, 6 Member States and 2 regions have a specific strategy for Entrepreneurship Education, 10 Member States have incorporated national objectives related to entrepreneurship education in broader lifelong learning strategies and in 8 Member States entrepreneurship strategies are currently under discussion	Marked increase in number of Member States implementing entrepreneurship solutions targeting potential, young, new and female entrepreneurs, as well as other specific target groups compared to baseline

(1) These indicators refer to developments in Enterprise and Industry policy area. The Commission itself is not solely responsible for the achievement of the targets. A range of other factors outside of the control of the Commission also affects outcomes in this area.

(2) Green products and services are those with a predominant function of reducing environmental risk and minimising pollution and resources. Products with environmental features (eco-designed, eco-labelled, organically produced, and with an important recycled content) are also included. Source: Flash Eurobarometer 342, "SMEs, Resource Efficiency and Green Markets".

(3) The Council Conclusions of 31 May 2011 included a call encouraging the Member States, where appropriate, to reduce the start-up time for new enterprises to three working days and the cost to EUR 100 by 2012, as well as the time needed to get licences and permits to take up and perform the specific activity of an enterprise to three months by the end of 2013.

(4) "Internationalisation of European SMEs", EIM, 2010, http://ec.europa.eu/enterprise/policies/sme/market-access/files/internationalisation_of_european_smes_final_en.pdf

(5) EUR 1 from the Union budget will result in EUR 20-30 in financing and EUR 4-6 in equity investments over the lifetime of the COSME programme.

**REGULATION (EU) No 1288/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

**establishing 'Erasmus+': the Union programme for education, training, youth and sport and
repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC**

(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 Articles 165(4) and 166(4) 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) The Commission's communication of 29 June 2011 entitled 'A Budget for Europe 2020' calls for a single programme in the field of education, training, youth and sport, including the international aspects of higher education, bringing together the action programme in the field of lifelong learning ('Lifelong Learning') established by Decision No 1720/2006/EC of the European Parliament and of the Council ⁽⁴⁾, the Youth in Action programme ('Youth in Action') established by Decision No 1719/2006/EC of the European Parliament and of the Council ⁽⁵⁾, the Erasmus Mundus action programme ('Erasmus Mundus') established by Decision No 1298/2008/EC of the European Parliament and of the Council ⁽⁶⁾, the ALFA III programme established by Regulation

(EC) No 1905/2006 of the European Parliament and of the Council ⁽⁷⁾, and the Tempus and Edulink programmes, in order to ensure greater efficiency, a stronger strategic focus and synergies to be exploited between the various aspects of the single programme. In addition, sport is proposed as part of that single programme (the 'Programme').

(2) The interim evaluation reports of the existing Lifelong Learning, Youth in Action and Erasmus Mundus programmes and the public consultation on the future of Union action in education, training and youth, as well as in higher education, revealed a strong and in some respects growing need for continuing cooperation and mobility in those fields at European level. The evaluation reports emphasised the importance of creating closer links between Union programmes and policy developments in education, training and youth, expressed the wish that Union action should be structured in such a way as to respond better to the lifelong learning paradigm, and pressed for a simpler, more user-friendly and more flexible approach to implementing such action and the end of the fragmentation of international higher education cooperation programmes.

(3) The Programme should focus on the accessibility of funding and the transparency of administrative and financial procedures, including through the use of information and communication technologies (ICTs) and digitisation. Streamlining and simplifying the organisation and management, and a sustained focus on reducing administrative expenditure, are also vital to the success of the Programme.

(4) The public consultation on the Union's strategic choices for the implementation of the new Union competence in the field of sport and the Commission's evaluation report on preparatory actions in the field of sport provided useful indications regarding priority areas for Union action, and illustrated the added value that the Union can bring in supporting activities aimed at generating, sharing and spreading experiences and knowledge about different issues affecting sport at the European level, provided that they are focused in particular at grassroots level.

⁽¹⁾ OJ C 181, 21.6.2012, p. 154.

⁽²⁾ OJ C 225, 27.7.2012, p. 200.

⁽³⁾ Position of the European Parliament of 19 November 2013 (not yet published in the Official Journal) and decision of the Council of 3 December 2013.

⁽⁴⁾ Decision No 1720/2006/EC of the European Parliament and of the Council of 15 November 2006 establishing an action programme in the field of lifelong learning (OJ L 327, 24.11.2006, p. 45).

⁽⁵⁾ Decision No 1719/2006/EC of the European Parliament and of the Council of 15 November 2006 establishing the Youth in Action programme for the period 2007 to 2013 (OJ L 327, 24.11.2006, p. 30).

⁽⁶⁾ Decision No 1298/2008/EC of the European Parliament and of the Council of 16 December 2008 establishing the Erasmus Mundus 2009-2013 action programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries (OJ L 340, 19.12.2008, p. 83).

⁽⁷⁾ Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41).

- (5) The Europe 2020 strategy for smart, sustainable and inclusive growth defines the Union's growth strategy for the coming decade to support such growth, setting five ambitious objectives to be reached by 2020, particularly in the field of education, where the aim is to reduce early school-leaving rates to a level below 10 % and to enable at least 40 % of 30-34 year-olds to have completed tertiary or equivalent education. This also includes its flagship initiatives, in particular Youth on the Move and the Agenda for New Skills and Jobs.
- (6) In its conclusions of 12 May 2009, the Council called for a strategic framework for European cooperation in education and training (ET 2020), setting up four strategic objectives with a view to responding to the challenges that remain in creating a knowledge-based Europe and making lifelong learning a reality for all.
- (7) Pursuant to Articles 8 and 10 of the Treaty on the Functioning of the European Union (TFEU), as well as Articles 21 and 23 of the Charter of Fundamental Rights of the European Union, the Programme promotes inter alia equality between men and women and measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. There is a need to widen access for members of disadvantaged and vulnerable groups and actively to address the special learning needs of people with disabilities in the implementation of the Programme.
- (8) The Programme should include a strong international dimension, particularly as regards higher education, in order not only to enhance the quality of European higher education in pursuit of the broader ET 2020 objectives and the attractiveness of the Union as a study destination, but also to promote understanding between people and to contribute to the sustainable development of higher education in partner countries, as well as their broader socio-economic development, inter alia by stimulating "brain circulation" through mobility actions with partner-country nationals. To that end, funding should be made available from the Development Cooperation Instrument (DCI), the European Neighbourhood Instrument (ENI), the Instrument for Pre-accession Assistance (IPA) and the Partnership Instrument for cooperation with third countries (PI). Funds might also be made available from the European Development Fund (EDF) in accordance with the procedures governing it. The provisions of this Regulation should apply to the use of those funds, while ensuring conformity with the respective Regulations establishing those instruments and that fund.
- (9) In its resolution of 27 November 2009 on a renewed framework for European cooperation in the youth field (2010-2018), the Council emphasised the need to consider all young people as a resource in society and sought to facilitate their participation in the development of policies affecting them by means of a continuous structured dialogue between decision-makers and young people and youth organisations at all levels.
- (10) Bringing formal, non-formal and informal learning together in a single programme should create synergies and foster cross-sectoral cooperation across the various education, training and youth sectors. During the implementation of the Programme, the specific needs of the various sectors and, where appropriate, the role of local and regional authorities should be duly taken into account.
- (11) To support mobility, equity and study excellence, the Union should establish, on a pilot basis, a Student Loan Guarantee Facility to enable students, regardless of their social background, to take their Master's degree in another country to which participation in the Programme is open (the 'Programme country'). The Student Loan Guarantee Facility should be available to financial institutions which agree to offer loans for Master's studies in other Programme countries on favourable terms for students. This additional and innovative tool for learning mobility should neither replace any current, nor impede the development of any future, grant or loan system supporting student mobility at local, national or Union level. The Student Loan Guarantee Facility should be subject to close monitoring and evaluation, in particular concerning its market uptake in different countries. In accordance with Article 21(2) and (3), a mid-term evaluation report should be submitted to the European Parliament and to the Council no later than the end of 2017, with a view to obtaining political guidance on the continuation of the Student Loan Guarantee Facility.
- (12) Member States should endeavour to adopt all appropriate measures to remove legal and administrative obstacles to the proper functioning of the Programme. This includes resolving, where possible, administrative issues that create difficulties in obtaining visas and residency permits. In line with Council Directive 2004/114/EC⁽¹⁾, Member States are encouraged to establish fast-track admission procedures.

⁽¹⁾ Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, 23.12.2004, p. 12).

- (13) The Commission's communication of 20 September 2011 entitled 'Supporting growth and jobs – an agenda for the modernisation of Europe's higher education systems' sets out a framework within which the Union, Member States and higher education institutions can cooperate to boost the number of graduates, to improve the quality of education and to maximise the contribution that higher education and research can make to helping Member States' economies and societies emerge stronger from the global economic crisis.
- (14) In order to better address youth unemployment in the Union, particular attention should be paid to transnational cooperation between higher and vocational education institutions and businesses, with a view to improving students' employability and developing entrepreneurial skills.
- (15) The Bologna Declaration, signed by the Education Ministers of 29 European countries on 19 June 1999, established an intergovernmental process aimed at creating a European area of higher education, which requires continuous support at Union level.
- (16) The crucial role played by vocational education and training (VET) in helping to achieve a number of targets set out in the Europe 2020 strategy is widely acknowledged and defined in the renewed Copenhagen process (2011-2020), taking into account, in particular, its potential in addressing Europe's high level of unemployment, especially youth unemployment and long-term unemployment, promoting a culture of lifelong learning, countering social exclusion and promoting active citizenship. Quality traineeships and apprenticeships, including those in micro-enterprises and small and medium-sized enterprises, are needed in order to bridge the gap between the knowledge acquired through education and training and the skills and competences required in the world of work, as well as to enhance the employability of young people.
- (17) It is necessary to strengthen the intensity and extent of European cooperation between schools, and of the mobility of school staff and learners, in order to address the priorities set out in the Agenda for European Cooperation on Schools for the 21st century, namely to improve the quality of school education in the Union in the fields of competence development and in order to improve equity and inclusion within school systems and institutions, as well as to reinforce and provide support for the teaching profession and school leadership. In this context, the strategic targets on reducing early school leaving, improving performance in basic skills, and improving participation and quality in early childhood education and care, should be prioritised along with targets reinforcing the professional competences of school teachers and school leaders, and improving the educational opportunities for children with a migrant background and those at a socio-economic disadvantage.
- (18) The renewed European Agenda for Adult Learning included in the Council's resolution of 28 November 2011 aims at enabling all adults to develop and enhance their skills and competences throughout their lives. Particular attention should be paid to improving learning opportunities for the high number of low-skilled Europeans, in particular by improving literacy and numeracy and by promoting flexible learning pathways and second-chance measures.
- (19) The action of the European Youth Forum, the National Academic Recognition Information Centres (NARIC), the Eurydice, Euroguidance and Eurodesk networks, the eTwinning National Support Services, the National Europass Centres, and the National Information Offices in the neighbourhood countries is essential in order to achieve the objectives of the Programme, in particular by providing the Commission with regular, updated information regarding their various fields of activity and through the dissemination of the Programme results in the Union and in the partner countries.
- (20) Cooperation under the Programme with international organisations in the field of education, training, youth and sport, in particular with the Council of Europe, should be strengthened.
- (21) In order to contribute to the development of excellence in European integration studies worldwide, and to respond to the increasing need for knowledge of, and dialogue on, the European integration process and its development, it is important to stimulate excellence in teaching, research and reflection in this area by supporting academic institutions, associations active in the field of European integration and associations pursuing an aim of European interest, through the Jean Monnet Action.
- (22) Cooperation under the Programme with civil society organisations in the fields of education, training, youth and sport, at national and Union level is of great importance in order to create a broad sense of ownership in relation to lifelong learning strategies and policies and to take into consideration stakeholders' ideas and concerns at all levels.

- (23) The Commission's communication of 18 January 2011 entitled 'Developing the European Dimension in Sport' sets out the Commission's ideas for action at Union level in the field of sport following the entry into force of the Treaty of Lisbon, and proposes a list of concrete actions to be taken by the Commission and Member States in order to increase sport's European identity in three broad chapters: the societal role of sport, the economic dimension of sport and the organisation of sport. It is also necessary to take into account the added value of sport, including indigenous sport, and its contribution to the Union's cultural and historical heritage.
- (24) There is a need to focus in particular on grassroots sport and volunteering in sport, on account of the important role that they play in promoting social inclusion, equal opportunities and health-enhancing physical activity.
- (25) Improved transparency and recognition of qualifications and competences and extended acceptance of Union transparency and recognition tools should contribute to the development of quality education and training, and facilitate mobility for both lifelong learning and occupational purposes throughout Europe, between countries as well as across sectors. Opening up access to methods, practices and technologies used in other countries will help to improve employability.
- (26) To that end, it is recommended that extended use be made of the single Union framework for the transparency of qualifications and competences (Europass) established by Decision No 2241/2004/EC of the European Parliament and of the Council⁽¹⁾, the European Quality Assurance Register for Higher Education (EQAR) and the European Association for Quality Assurance in Higher Education (ENQA) established pursuant to Recommendation 2006/143/EC of the European Parliament and of the Council⁽²⁾, the European Qualifications Framework (EQF) established pursuant to the Recommendation of the European Parliament and of the Council of 23 April 2008⁽³⁾, the European Credit System for Vocational Education and Training (ECVET) established pursuant to the Recommendation of the European Parliament and of the Council of 18 June 2009⁽⁴⁾, the European Quality Assurance Reference Framework for Vocational Education and Training (EQAVET) established pursuant to the Recommendation of the European Parliament and of the Council of 18 June 2009⁽⁵⁾ and the European Credit Transfer and Accumulation System (ECTS).
- (27) In order to ensure greater efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission, the resources allocated to communication under this Regulation should also contribute to covering the corporate communication of the political priorities of the Union, provided that these are related to the general objective of this Regulation.
- (28) It is necessary to ensure the European added value of all actions carried out within the framework of the Programme, and their complementarity with activities undertaken by the Member States in compliance with Article 167(4) of the TFEU and with other activities, in particular those in the fields of culture and the media, employment, research and innovation, industry and enterprise, cohesion and development policy, as well as enlargement policy and initiatives, instruments and strategies in the field of regional policy and external relations.
- (29) The Programme is designed to have a positive and sustainable impact on education, training, youth and sport policies and practices. That systemic impact should be achieved through the various actions and activities envisaged in the Programme, which aim at fostering changes at institutional level and which lead, where appropriate, to innovation at system level. Individual projects for which financial support is sought from the Programme are not required to have any systemic impact as such. It is the cumulative result of those projects that should contribute to the attainment of systemic impact.
- (30) Effective performance management, including evaluation and monitoring, requires the development of specific, measurable and realistic performance indicators which can be measured over time and which reflect the logic of the intervention.
- (31) The Commission and the Member States should optimise the use of ICTs and new technologies in order to facilitate access to actions relating to education, training, youth and sport. This could include virtual mobility, which should complement, but not replace, learning mobility.
- ⁽¹⁾ Decision No 2241/2004/EC of the European Parliament and of the Council of 15 December 2004 on a single Community framework for the transparency of qualifications and competences (Europass) (OJ L 390, 31.12.2004, p. 6).
- ⁽²⁾ Recommendation 2006/143/EC of the European Parliament and of the Council of 15 February 2006 on further European cooperation in quality assurance in higher education (OJ L 64, 4.3.2006, p. 60).
- ⁽³⁾ Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning (OJ C 111, 6.5.2008, p. 1).
- ⁽⁴⁾ Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training (OJ C 155, 8.7.2009, p. 1).
- ⁽⁵⁾ Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training (OJ C 155, 8.7.2009, p. 1).

- (32) This Regulation lays down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of Point 17 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽¹⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (33) In order to ensure continuity in the funding support provided under the Programme to the functioning of bodies, the Commission should be able during the initial phase of the Programme to consider the costs directly linked to the implementation of the supported activities as eligible for financing, even if they were incurred by the beneficiary before the grant application was submitted.
- (34) There is a need to establish performance criteria on which the allocation of budget funds between Member States for the actions managed by the national agencies should be based.
- (35) The candidate countries for accession to the Union and those European Free Trade Association (EFTA) countries which form part of the European Economic Area (EEA) may participate in Union programmes on the basis of framework agreements, Association Council decisions or similar agreements.
- (36) The Swiss Confederation may participate in the Union programmes in accordance with an agreement to be signed between the Union and that country.
- (37) Individuals from an overseas country or territory (OCT) and competent public and/or private bodies and institutions from an OCT may participate in the programmes in accordance with Council Decision 2001/822/EC ⁽²⁾. The constraints imposed by the remoteness of the outermost regions of the Union and the OCTs should be taken into account when implementing the Programme.
- (38) The Commission and the High Representative of the European Union for Foreign Affairs and Security Policy, in their joint communication of 25 May 2011 entitled 'A new response to a changing Neighbourhood', outlined, inter alia, the aim of further facilitating neighbourhood countries' participation in Union mobility and capacity-building actions in higher education and the opening of the future education programme to the neighbourhood countries.
- (39) 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, penalties. While Union external assistance has an increasing need for financing, the economic and budgetary situation of the Union limits the resources available for such assistance. The Commission should, therefore, seek the most efficient and sustainable use of available resources, in particular through the use of financial instruments with leverage effect.
- (40) In order to enhance access to the Programme, the grants to support the mobility of individuals should be adjusted to the living and subsistence costs of the host country. In accordance with national law, Member States should also be encouraged to exempt those grants from any taxes and social levies. The same exemption should apply to public or private bodies awarding such financial support to the individuals concerned.
- (41) In accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾, volunteer time can be recognised as co-financing in the form of contributions in kind.
- (42) In its communication of 29 June 2011 entitled 'A Budget for Europe 2020', the Commission underlined its commitment to simplifying Union funding. The creation of a single programme on education, training, youth and sport should result in significant simplification, rationalisation and synergies in the management of the Programme. The implementation of the Programme should be further simplified by the use of lump-sum, unit-cost or flat-rate funding, as well as by reducing formal and bureaucratic requirements for beneficiaries and Member States.
- (43) Improving implementation and the quality of spending should constitute guiding principles for achieving the objectives of the Programme, whilst ensuring the optimal use of the financial resources.
- (44) It is important to ensure sound financial management of the Programme and its implementation in the most effective and user-friendly manner possible, whilst also ensuring legal certainty and the accessibility of the Programme to all participants.
- (45) In order to ensure a quick response to changing needs throughout the duration of the Programme, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of provisions relating to additional actions managed by the national agencies. It is of particular importance that

⁽¹⁾ OJ C 373, 20.12.2013, p. 1

⁽²⁾ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ('Overseas Association Decision') (OJ L 314, 30.11.2001, p. 1).

⁽³⁾ 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).

the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(46) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.

(47) The Programme should cover three different fields, and the committee established under this Regulation should deal with both horizontal and sectoral issues. It is for the Member States to ensure that they send the relevant representatives to attend meetings of that committee in accordance with the topics on its agenda, and it is for the committee chair to ensure that meeting agendas clearly indicate the sector or sectors involved and the topics, according to each sector, to be discussed at each meeting. Where appropriate, and in accordance with the committee's rules of procedure and on an ad hoc basis, it should be possible to invite external experts, including representatives of the social partners, to participate in the committee meetings as observers.

(48) It is appropriate to ensure the correct closure of the Programme, in particular as regards the continuation of multi-annual arrangements for its management, such as the financing of technical and administrative assistance. As from 1 January 2014, the technical and administrative assistance should ensure, if necessary, the management of actions that have not yet been finalised under the predecessor programmes by the end of 2013.

(49) Since the objective of this Regulation, namely to establish the Programme, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, 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 of the 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.

(50) Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC should therefore be repealed.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(51) In order to ensure continuity in the funding support provided under the Programme, this Regulation should apply from 1 January 2014. For reasons of urgency, this Regulation should enter into force as soon as possible after its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Scope of the Programme

1. This Regulation establishes a programme for Union action in the field of education, training, youth and sport called 'Erasmus+' (the 'Programme').

2. The Programme shall be implemented for the period from 1 January 2014 to 31 December 2020.

3. The Programme shall cover the following fields, whilst respecting the structures and specific needs of the various sectors in the Member States:

(a) education and training at all levels, in a lifelong learning perspective, including school education (Comenius), higher education (Erasmus), international higher education (Erasmus Mundus), vocational education and training (Leonardo da Vinci) and adult learning (Grundtvig);

(b) youth (Youth in Action), particularly in the context of non-formal and informal learning;

(c) sport, in particular grassroots sport.

4. The Programme shall include an international dimension aimed at supporting the Union's external action, including its development objectives, through cooperation between the Union and partner countries.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) 'lifelong learning' means all general education, vocational education and training, non-formal learning and informal learning undertaken throughout life, resulting in an improvement in knowledge, skills and competences or participation in society within a personal, civic, cultural, social and/or employment-related perspective, including the provision of counselling and guidance services;

- (2) 'non-formal learning' means learning which takes place through planned activities (in terms of learning objectives and learning time) where some form of learning support is present (e.g. a student-teacher relationship), but which is not part of the formal education and training system;
- (3) 'informal learning' means learning resulting from daily activities related to work, family or leisure which is not organised or structured in terms of objectives, time or learning support; it may be unintentional from the learner's perspective;
- (4) 'structured dialogue' means the dialogue with young people and youth organisations which serves as a forum for continuous joint reflection on the priorities, implementation and follow-up of European cooperation in the youth field;
- (5) 'transnational' relates, unless otherwise indicated, to any action involving at least two Programme countries as referred to in Article 24(1);
- (6) 'international' relates to any action involving at least one Programme country and at least one third country ('partner country');
- (7) 'learning mobility' means moving physically to a country other than the country of residence, in order to undertake study, training or non-formal or informal learning; it may take the form of traineeships, apprenticeships, youth exchanges, volunteering, teaching or participation in a professional development activity, and may include preparatory activities, such as training in the host language, as well as sending, hosting and follow-up activities;
- (8) 'cooperation for innovation and the exchange of good practices' means transnational and international cooperation projects involving organisations active in the fields of education, training and/or youth, and may include other organisations;
- (9) 'support for policy reform' means any type of activity aimed at supporting and facilitating the modernisation of education and training systems, as well as support for the development of European youth policy, through the process of policy cooperation between Member States, in particular the Open Method of Coordination and the structured dialogue with young people;
- (10) 'virtual mobility' means a set of activities supported by information and communications technology, including e-learning, organised at institutional level, that realise or facilitate transnational and/or international, collaborative experiences in a context of teaching and/or learning;
- (11) 'staff' means persons who, on either a professional or a voluntary basis, are involved in education, training or youth non-formal learning, and may include professors, teachers, trainers, school leaders, youth workers and non-educational staff;
- (12) 'youth worker' means a professional or a volunteer involved in non-formal learning who supports young people in their personal socio-educational and professional development;
- (13) 'young people' means individuals aged between 13 and 30;
- (14) 'higher education institution' means:
- (a) any type of higher education institution which, in accordance with national law or practice, offers recognised degrees or other recognised tertiary level qualifications, whatever such establishment may be called;
- (b) any institution which, in accordance with national law or practice, offers vocational education or training at tertiary level;
- (15) 'joint degrees' means an integrated study programme offered by at least two higher education institutions resulting in a single degree certificate issued and signed by all the participating institutions jointly and recognised officially in the countries where the participating institutions are located;
- (16) 'double degree/multiple degree' means a study programme offered by at least two (double) or more (multiple) higher education institutions whereby the student receives, upon completion of the study programme, a separate degree certificate from each of the participating institutions;
- (17) 'youth activity' means an out-of-school activity (such as youth exchange, volunteering or youth training) carried out by a young person, either individually or in a group, in particular through youth organisations, and characterised by a non-formal learning approach;
- (18) 'partnership' means an agreement between a group of institutions and/or organisations in different Programme countries to carry out joint European activities in the fields of education, training, youth and sport or establishing a formal or informal network in a relevant field such as joint learning projects for pupils and their teachers in the form of class exchanges and individual long-term mobility, intensive programmes in higher education and cooperation between regional and local authorities to foster inter-regional, including cross-border, cooperation; it may be extended to institutions and/or organisations from partner countries with a view to strengthening the quality of the partnership;

- (19) 'key competences' means the basic set of knowledge, skills and attitudes which all individuals need for personal fulfilment and development, active citizenship, social inclusion and employment, as described in Recommendation 2006/962/EC of the European Parliament and of the Council ⁽¹⁾;
- (20) 'Open Method of Coordination' (OMC) means an inter-governmental method providing a framework for cooperation between the Member States, whose national policies can thus be directed towards certain common objectives; within the scope of the Programme, the OMC applies to education, training and youth;
- (21) 'Union transparency and recognition tools' means instruments that help stakeholders to understand, appreciate and, as appropriate, recognise learning outcomes and qualifications throughout the Union;
- (22) 'neighbourhood countries' means the countries and territories covered by the European Neighbourhood Policy;
- (23) 'dual career' means the combination of high-level sports training with general education or work;
- (24) 'grassroots sport' means organised sport practised at local level by amateur sportspeople, and sport for all.

Article 3

European added value

1. The Programme shall support only those actions and activities which present a potential European added value and which contribute to the achievement of the general objective as referred to in Article 4.
2. The European added value of the actions and activities of the Programme shall be ensured in particular through their:
 - (a) transnational character, particularly with regard to mobility and cooperation aimed at achieving a sustainable systemic impact;
 - (b) complementarity and synergy with other programmes and policies at national, Union and international level;
 - (c) contribution to the effective use of Union transparency and recognition tools.

⁽¹⁾ Recommendation 2006/962/EC of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (OJ L 394, 30.12.2006, p. 10).

Article 4

General objective of the Programme

The Programme shall contribute to the achievement of:

- (a) the objectives of the Europe 2020 strategy, including the headline education target;
- (b) the objectives of the strategic framework for European cooperation in education and training ('ET 2020'), including the corresponding benchmarks;
- (c) the sustainable development of partner countries in the field of higher education;
- (d) the overall objectives of the renewed framework for European cooperation in the youth field (2010-2018);
- (e) the objective of developing the European dimension in sport, in particular grassroots sport, in line with the Union work plan for sport; and
- (f) the promotion of European values in accordance with Article 2 of the Treaty on European Union.

CHAPTER II

Education and training

Article 5

Specific objectives

1. In line with the general objective of the Programme as specified in Article 4, in particular the objectives of ET 2020, as well as in support of the sustainable development of partner countries in the field of higher education, the Programme shall pursue the following specific objectives:
 - (a) to improve the level of key competences and skills, with particular regard to their relevance for the labour market and their contribution to a cohesive society, in particular through increased opportunities for learning mobility and through strengthened cooperation between the world of education and training and the world of work;
 - (b) to foster quality improvements, innovation excellence and internationalisation at the level of education and training institutions, in particular through enhanced transnational cooperation between education and training providers and other stakeholders;
 - (c) to promote the emergence and raise awareness of a European lifelong learning area designed to complement policy reforms at national level and to support the modernisation of education and training systems, in particular through enhanced policy cooperation, better use of Union transparency and recognition tools and the dissemination of good practices;

- (d) to enhance the international dimension of education and training, in particular through cooperation between Union and partner-country institutions in the field of VET and in higher education, by increasing the attractiveness of European higher education institutions and supporting the Union's external action, including its development objectives, through the promotion of mobility and cooperation between the Union and partner-country higher education institutions and targeted capacity-building in partner countries;
- (e) to improve the teaching and learning of languages and to promote the Union's broad linguistic diversity and intercultural awareness;
- (f) to promote excellence in teaching and research activities in European integration through the Jean Monnet activities worldwide, as referred to in Article 10.
2. For the purposes of evaluating the Programme, measurable and relevant indicators in relation to the specific objectives referred to in paragraph 1 are set out in Annex I.

Article 6

Actions of the Programme

1. In the field of education and training, the Programme shall pursue its objectives through the following types of actions:
- (a) learning mobility of individuals;
- (b) cooperation for innovation and the exchange of good practices; and
- (c) support for policy reform.
2. The specific Jean Monnet activities are described in Article 10.

Article 7

Learning mobility of individuals

1. Learning mobility of individuals shall support the following activities within the Programme countries referred to in Article 24(1):
- (a) the mobility of students in all cycles of higher education and of students, apprentices and pupils in vocational education and training. This mobility may take the form of studying at a partner institution or traineeships or gaining experience as an apprentice, assistant or trainee abroad. Degree mobility at Master's level may be supported through the Student Loan Guarantee Facility referred to in Article 20;
- (b) the mobility of staff, within the Programme countries referred to in Article 24(1). This mobility may take the

form of teaching or assistantships or participation in professional development activities abroad.

2. This action shall also support the international mobility of students and staff to and from partner countries as regards higher education, including mobility organised on the basis of joint, double or multiple degrees of high quality or joint calls.

Article 8

Cooperation for innovation and the exchange of good practices

1. Cooperation for innovation and the exchange of good practices shall support:
- (a) strategic partnerships between organisations and/or institutions involved in education and training or other relevant sectors aimed at developing and implementing joint initiatives and promoting peer learning and exchanges of experience;
- (b) partnerships between the world of work and education and training institutions in the form of:
- knowledge alliances between, in particular, higher education institutions and the world of work aimed at promoting creativity, innovation, work-based learning and entrepreneurship by offering relevant learning opportunities, including developing new curricula and pedagogical approaches;
 - sector skills alliances between education and training providers and the world of work aimed at promoting employability, contributing to the creation of new sector-specific or cross-sectoral curricula, developing innovative methods of vocational teaching and training and putting the Union transparency and recognition tools into practice;

- (c) IT support platforms, covering all education and training sectors, including in particular eTwinning, allowing peer learning, virtual mobility and exchanges of good practices and opening access for participants from neighbourhood countries.

2. This action shall also support development, capacity-building, regional integration, knowledge exchanges and modernisation processes through international partnerships between higher education institutions in the Union and in partner countries, in particular for peer learning and joint education projects, as well as through the promotion of regional cooperation and National Information Offices, in particular with neighbourhood countries.

*Article 9***Support for policy reform**

1. Support for policy reform shall include the activities initiated at Union level relating to:

- (a) the implementation of the Union policy agenda on education and training in the context of the OMC, as well as to the Bologna and Copenhagen processes;
- (b) the implementation in Programme countries of Union transparency and recognition tools, in particular the single Union framework for the transparency of qualifications and competences (Europass), the European Qualifications Framework (EQF), the European Credit Transfer and Accumulation System (ECTS), the European Credit System for Vocational Education and Training (ECVET), the European Quality Assurance Reference Framework for Vocational Education and Training (EQAVET), the European Quality Assurance Register for Higher Education (EQAR) and the European Association for Quality Assurance in Higher Education (ENQA), and the provision of support to Union-wide networks and European non-governmental organisations (NGOs) active in the field of education and training;
- (c) the policy dialogue with relevant European stakeholders in the field of education and training;
- (d) NARIC, the Eurydice and Euroguidance networks, and the National Europass Centres.

2. This action shall also support policy dialogue with partner countries and international organisations.

*Article 10***Jean Monnet activities**

The Jean Monnet activities shall aim to:

- (a) promote teaching and research on European integration worldwide among specialist academics, learners and citizens, in particular through the creation of Jean Monnet Chairs and other academic activities, as well as by providing aid for other knowledge-building activities at higher education institutions;
- (b) support the activities of academic institutions or associations active in the field of European integration studies and support a Jean Monnet label for excellence;
- (c) support the following institutions pursuing an aim of European interest:
 - (i) the European University Institute of Florence;
 - (ii) the College of Europe (Bruges and Natolin campuses);

- (iii) the European Institute of Public Administration (EIPA), Maastricht;

- (iv) the Academy of European Law, Trier;

- (v) the European Agency for Development in Special Needs Education, Odense;

- (vi) the International Centre for European Training (CIFE), Nice;

- (d) promote policy debate and exchanges between the academic world and policy-makers on Union policy priorities.

*CHAPTER III***Youth***Article 11***Specific objectives**

1. In line with the general objective of the Programme as specified in Article 4, in particular the objectives of the renewed framework for European cooperation in the youth field (2010–2018), the Programme shall pursue the following specific objectives:

- (a) to improve the level of key competences and skills of young people, including those with fewer opportunities, as well as to promote participation in democratic life in Europe and the labour market, active citizenship, intercultural dialogue, social inclusion and solidarity, in particular through increased learning mobility opportunities for young people, those active in youth work or youth organisations and youth leaders, and through strengthened links between the youth field and the labour market;
- (b) to foster quality improvements in youth work, in particular through enhanced cooperation between organisations in the youth field and/or other stakeholders;
- (c) to complement policy reforms at local, regional and national level and to support the development of knowledge and evidence-based youth policy as well as the recognition of non-formal and informal learning, in particular through enhanced policy cooperation, better use of Union transparency and recognition tools and the dissemination of good practices;
- (d) to enhance the international dimension of youth activities and the role of youth workers and organisations as support structures for young people in complementarity with the Union's external action, in particular through the promotion of mobility and cooperation between the Union and partner-country stakeholders and international organisations and through targeted capacity-building in partner countries.

2. For the purposes of evaluating the Programme, measurable and relevant indicators in relation to the specific objectives referred to in paragraph 1 are set out in Annex I.

Article 12

Actions of the Programme

The Programme shall pursue its objectives through the following types of actions:

- (a) learning mobility of individuals;
- (b) cooperation for innovation and the exchange of good practices;
- (c) support for policy reform.

Article 13

Learning mobility of individuals

1. Learning mobility of individuals shall support:
 - (a) the mobility of young people in non-formal and informal learning activities between the Programme countries; such mobility may take the form of youth exchanges and volunteering through the European Voluntary Service, as well as innovative activities building on existing provisions for mobility;
 - (b) the mobility of persons active in youth work or youth organisations and youth leaders; such mobility may take the form of training and networking activities.
2. This action shall also support the mobility of young people, persons active in youth work or youth organisations and youth leaders, to and from partner countries, in particular neighbourhood countries.

Article 14

Cooperation for innovation and the exchange of good practices

1. Cooperation for innovation and the exchange of good practices shall support:
 - (a) strategic partnerships aimed at developing and implementing joint initiatives, including youth initiatives and citizenship projects that promote active citizenship, social innovation, participation in democratic life and entrepreneurship, through peer learning and exchanges of experience;

- (b) IT support platforms allowing peer learning, knowledge-based youth work, virtual mobility and exchanges of good practice.

2. This action shall also support development, capacity-building and knowledge exchanges through partnerships between organisations in Programme countries and partner countries, in particular through peer learning.

Article 15

Support for policy reform

1. Support for policy reform shall include activities relating to:
 - (a) the implementation of the Union policy agenda on youth through the OMC;
 - (b) implementation in the Programme countries of Union transparency and recognition tools, in particular the Youthpass, and support for Union-wide networks and European youth NGOs;
 - (c) policy dialogue with relevant European stakeholders and structured dialogue with young people;
 - (d) the European Youth Forum, resource centres for the development of youth work and the Eurodesk network.
2. This action shall also support policy dialogue with partner countries and international organisations.

CHAPTER IV

Sport

Article 16

Specific objectives

1. In line with the general objective of the Programme, as specified in Article 4, and with the Union work plan for sport, the Programme shall focus in particular on grassroots sport and shall pursue the following specific objectives:
 - (a) to tackle cross-border threats to the integrity of sport, such as doping, match-fixing and violence, as well as all kinds of intolerance and discrimination;
 - (b) to promote and support good governance in sport and dual careers of athletes;
 - (c) to promote voluntary activities in sport, together with social inclusion, equal opportunities and awareness of the importance of health-enhancing physical activity through increased participation in, and equal access to, sport for all.

2. For the purposes of evaluating the Programme, measurable and relevant indicators in relation to the specific objectives referred to in paragraph 1 are set out in Annex I.

Article 17

Activities

1. The objectives of cooperation shall be pursued through the following transnational activities, which shall focus in particular on grassroots sport:

- (a) support for collaborative partnerships;
- (b) support for not-for-profit European sport events involving several Programme countries and contributing to the objectives set out in point (c) of Article 16(1);
- (c) support for strengthening the evidence base for policy-making;
- (d) dialogue with relevant European stakeholders.

2. The activities referred to in paragraph 1 may leverage supplementary funding from third parties such as private undertakings.

CHAPTER V

Financial provisions

Article 18

Budget

1. The financial envelope for the implementation of the Programme as from 1 January 2014 is set at EUR 14 774 524 000 in current prices.

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

2. The amount referred to in paragraph 1 shall be allocated to the actions of the Programme as follows, with a margin of flexibility not exceeding 5 % of each of the allocated amounts:

- (a) 77,5 % to education and training, from which the following minimum allocations shall be assigned:
 - (i) 43 % to higher education, representing 33,3 % of the total budget;
 - (ii) 22 % to vocational education and training, representing 17 % of the total budget;
 - (iii) 15 % to school education, representing 11,6 % of the total budget;

(iv) 5 % to adult learning, representing 3,9 % of the total budget;

(b) 10 % to youth;

(c) 3,5 % to the Student Loan Guarantee Facility;

(d) 1,9 % to Jean Monnet;

(e) 1,8 % to sport, of which no more than 10 % to the activity mentioned under point (b) of Article 17(1);

(f) 3,4 % as operating grants to national agencies; and

(g) 1,9 % to cover administrative expenditure.

3. Of the allocations referred to in points (a) and (b) of paragraph 2, at least 63 % shall be allocated to learning mobility of individuals, at least 28 % to cooperation for innovation and the exchange of good practices and 4,2 % to support for policy reform.

4. In addition to the financial envelope as indicated in paragraph 1, and in order to promote the international dimension of higher education, additional funding, as provided for in the different external instruments (Development Cooperation Instrument (DCI), the European Neighbourhood Instrument (ENI), the Partnership Instrument for cooperation with third countries (PI) and the Instrument for Pre-accession Assistance (IPA)), shall be allocated to actions in respect of learning mobility to or from partner countries, and to cooperation and policy dialogue with authorities, institutions and organisations from those countries. This Regulation shall apply to the use of those funds, while ensuring conformity with the Regulations respectively governing those external instruments, and, in the case of the DCI, fulfilling also the criteria for Official Development Assistance as established by the Development Assistance Committee of the Organisation for Economic Co-operation and Development.

The funding shall be made available through two multiannual allocations covering the first four years and the remaining three years respectively. The allocation of that funding shall be determined in the multiannual indicative programming of the external instruments referred to in the first subparagraph, in line with the identified needs and priorities of the countries concerned. Cooperation with partner countries may be based, where relevant, on additional appropriations from those countries to be made available in accordance with procedures to be agreed with them.

The student and staff mobility action between Programme countries and partner countries funded through the allocation from the DCI shall focus on areas that are relevant to the inclusive and sustainable development of developing countries.

5. The financial allocation for the Programme may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the Programme and the achievement of its objectives, in particular, studies, meetings of experts and information and communication actions, including corporate communication of the political priorities of the Union as far as they are related to the general objective of this Regulation, expenses linked to IT focusing on information processing and exchange, and all other technical and administrative assistance expenses incurred by the Commission for the management of the Programme.

6. The financial allocation may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC. If necessary, appropriations could be entered in the budget beyond 2020 to cover similar expenses, in order to allow the management of actions and activities not yet completed by 31 December 2020.

7. The funds for the learning mobility of individuals referred to in point (a) of Article 6(1) and point (a) of Article 12 that are to be managed by a national agency or agencies (the 'national agency') shall be allocated on the basis of population and cost of living in the Member State, distance between capitals of Member States and performance. The performance parameter shall account for 25 % of the total funds according to the criteria referred to in paragraphs 8 and 9. As regards strategic partnerships referred to in point (a) of Article 8(1) and point (a) of Article 14(1) that are to be selected and managed by a national agency, the funds shall be allocated on the basis of criteria to be defined by the Commission in accordance with the examination procedure referred to in Article 36(3). Those formulae shall, as far as possible, be neutral with respect to the different education and training systems of the Member States, shall avoid substantial reductions in the annual budget allocated to Member States from one year to the next and shall minimise excessive imbalances in the level of grants allocated.

8. Allocation of funds based on performance shall apply in order to promote an efficient and effective use of resources. The criteria used to measure performance shall be based on the most recent data available and shall focus in particular on:

- (a) the level of annual realised outputs; and
- (b) the level of annual payments realised.

9. The allocation of funds for the year 2014 shall be based on the latest available data on actions carried out and the budget take-up under the Lifelong Learning, Youth in Action and Erasmus Mundus programmes up to and including 31 December 2013.

10. The Programme may provide support through specific innovative funding modalities, in particular those set out in Article 20.

Article 19

Specific funding modalities

1. The Commission shall implement the Union financial support in accordance with Regulation (EU, Euratom) No 966/2012.

2. The Commission may launch joint calls with partner countries or their organisations and agencies to finance projects on the basis of matching funds. Projects may be evaluated and selected through joint evaluation and selection procedures to be agreed upon by the funding agencies involved, in compliance with the principles set out in Regulation (EU, Euratom) No 966/2012.

3. Public bodies, as well as schools, higher education institutions and organisations in the fields of education, training, youth and sport that have received over 50 % of their annual revenue from public sources over the last two years shall be considered as having the necessary financial, professional and administrative capacity to carry out activities under the Programme. They shall not be required to present further documentation to demonstrate that capacity.

4. By way of derogation from Article 130(2) of Regulation (EU, Euratom) No 966/2012, and in duly justified cases, the Commission may consider the costs directly linked to the implementation of the supported activities and incurred during the first six months of 2014 as eligible for financing from 1 January 2014, even if they were incurred by the beneficiary before the grant application was submitted.

5. The amount referred to in point (c) of Article 137(1) of Regulation (EU, Euratom) No 966/2012 shall not apply to financial support for learning mobility granted to individuals.

Article 20

Student Loan Guarantee Facility

1. The Student Loan Guarantee Facility shall provide partial guarantees to financial intermediaries in respect of loans granted on the most favourable terms possible to students undertaking a second-cycle degree, such as a Master's degree, at a recognised higher education institution in a Programme country, as referred to in Article 24(1), which is neither their country of residence nor the country in which they obtained their qualification granting access to the Master's programme.

2. Guarantees issued through the Student Loan Guarantee Facility shall cover new eligible student loans up to a maximum of EUR 12 000 for a one-year programme and up to EUR 18 000 for a programme lasting up to two years, or their equivalent in local currency.

3. The management of the Student Loan Guarantee Facility at Union level shall be entrusted to the European Investment Fund (EIF) in accordance with Regulation (EU, Euratom) No 966/2012 on the basis of a delegation agreement with the Commission, setting out the detailed rules and requirements governing the implementation of the Student Loan Guarantee Facility and the respective obligations of the parties. On this basis, the EIF shall conclude agreements with financial intermediaries, such as banks, national and/or regional student lending institutions or other recognised financial institutions, and shall endeavour to select a financial intermediary from each Programme country, in order to ensure that students from all Programme countries have access to the Student Loan Guarantee Facility in a consistent and non-discriminatory manner.

4. Technical information on the functioning of the Student Loan Guarantee Facility is provided in Annex II.

CHAPTER VI

Performance, results and dissemination

Article 21

Monitoring and evaluation of performance and results

1. The Commission, in cooperation with the Member States, shall regularly monitor and report on the performance and results of the Programme as measured against its objectives, with particular regard to:

- (a) the European added value referred to in Article 3;
- (b) the distribution of funds associated with the education, training and youth sectors, with a view to ensuring, by the end of the Programme, an allocation of funding which guarantees a sustainable systemic impact;
- (c) the use of the funds derived from the external instruments as referred to in Article 18(4) and their contribution to the respective objectives and principles of those instruments.

2. In addition to carrying out its ongoing monitoring activities, the Commission shall submit a mid-term evaluation report by 31 December 2017 in order to assess the effectiveness of the measures taken to achieve the Programme's objectives and to evaluate the efficiency of the Programme and its European added value, accompanied, if appropriate, by a legislative proposal to amend this Regulation. The mid-term evaluation report shall address the scope for simplification of the Programme, its internal and external coherence, the continued relevance of all of its objectives, and the contribution made by the measures taken to the realisation of the Europe 2020 strategy. It shall also take into account the results of an evaluation of the long-term impact of the predecessor programmes (Lifelong Learning, Youth in Action, Erasmus Mundus and other international higher education programmes).

3. The Commission shall submit the mid-term evaluation report referred to in paragraph 2 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

4. Without prejudice to the requirements set out in Chapter VIII and the obligations of national agencies as referred to in Article 28, Member States shall submit to the Commission, by 30 June 2017, a report on the implementation and the impact of the Programme in their respective territories.

5. The Commission shall submit a final evaluation of the Programme to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions by 30 June 2022.

Article 22

Communication and dissemination

1. The Commission, in cooperation with Member States, shall ensure the dissemination of information, publicity and follow-up with regard to all actions and activities supported under the Programme, as well as the dissemination of the results of the previous Lifelong Learning, Youth in Action and Erasmus Mundus programmes.

2. Beneficiaries of the projects supported through actions and activities as referred to in Articles 6, 10, 12, 17 and 20 should ensure that the results and impacts obtained are properly communicated and disseminated. This may include the provision of peer-to-peer information in relation to mobility opportunities.

3. The national agencies referred to in Article 28 shall develop a consistent policy with regard to the effective dissemination and exploitation of results of activities supported under the actions they manage within the Programme, shall assist the Commission in the general task of disseminating information concerning the Programme, including information in respect of actions and activities managed at national and Union level, and its results, and shall inform relevant target groups about the actions undertaken in their country.

4. The public and private bodies within the sectors covered by the Programme shall use the brand name 'Erasmus+' for the purpose of communication and dissemination of information relating to the Programme. For the different sectors of the Programme, the following brand names shall be used:

- 'Comenius', associated with school education;
- 'Erasmus', associated with all types of higher education within the Programme countries;
- 'Erasmus Mundus', associated with all types of higher education activities between the Programme countries and partner countries;
- 'Leonardo da Vinci', associated with vocational education and training;
- 'Grundtvig', associated with adult learning;

- 'Youth in Action', associated with non-formal and informal learning in the field of youth;
 - 'Sports', associated with activities in the field of sport.
5. Communication activities shall also contribute to the corporate communication of the political priorities of the Union, provided that they are related to the general objective of this Regulation.

CHAPTER VII

Access to the Programme

Article 23

Access

1. Any public or private body active in the fields of education, training, youth and grassroots sport may apply for funding within the Programme. In the case of the activities referred to in point (a) of Article 13(1) and point (a) of Article 14(1), the Programme shall support the participation of groups of young people who are active in youth work, but not necessarily in the context of a youth organisation.
2. When implementing the Programme, inter alia as regards the selection of participants and the award of scholarships, the Commission and the Member States shall ensure that particular efforts are made to promote social inclusion and the participation of people with special needs or with fewer opportunities.

Article 24

Country participation

1. The Programme shall be open to the participation of the following countries (the 'Programme countries'):
 - (a) the Member States;
 - (b) the acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements, Association Council decisions or similar agreements;
 - (c) those EFTA countries that are party to the EEA Agreement, in accordance with the provisions of that agreement;
 - (d) the Swiss Confederation, on the basis of a bilateral agreement to be concluded with that country;
 - (e) those countries covered by the European neighbourhood policy which have concluded agreements with the Union providing for the possibility of their participation in the Union's programmes, subject to the conclusion of a bilateral agreement with the Union on the conditions of their participation in the Programme.

2. The Programme countries shall be subject to all the obligations, and shall fulfil all the tasks set out in this Regulation in relation to Member States.

3. The Programme shall support cooperation with partner countries, in particular neighbourhood countries, in actions and activities as referred to in Articles 6, 10 and 12.

CHAPTER VIII

Management and audit system

Article 25

Complementarity

The Commission, in cooperation with the Member States, shall ensure the overall consistency and complementarity of the Programme with:

- (a) the relevant policies and programmes, in particular those relating to culture and the media, employment, research and innovation, industry and enterprise, cohesion and development policy, as well as enlargement policy and initiatives, instruments and strategies in the field of regional policy and external relations;
- (b) the other Union relevant sources of funding for education, training, youth and sport, in particular the European Social Fund and the other financial instruments relating to employment and social inclusion, the European Regional Development Fund and 'Horizon 2020' - the Framework Programme for Research and Innovation, as well as the financial instruments relating to justice and citizenship, health, external cooperation programmes and pre-accession assistance.

Article 26

Implementing bodies

The Programme shall be implemented in a consistent manner by the following bodies:

- (a) the Commission at Union level;
- (b) the national agencies at national level in the Programme countries.

Article 27

National authority

1. The term 'national authority' refers to one or more national authorities in accordance with national law and practice.
2. By 22 January 2014, the Member States shall notify the Commission, by way of a formal notification transmitted by their Permanent Representation, of the person(s) legally authorised to act on their behalf as the national authority for the purposes of this Regulation. In the event of replacement of the national authority during the course of the Programme's lifetime, the relevant Member State shall notify the Commission thereof immediately, in accordance with the same procedure.

3. The Member States shall take all appropriate measures to remove legal and administrative obstacles to the proper functioning of the Programme, including, where possible, measures aimed at resolving issues that give rise to difficulties in obtaining visas.

4. By 22 March 2014, the national authority shall designate a national agency or national agencies. In cases where there is more than one national agency, Member States shall establish an appropriate mechanism for the coordinated management of the implementation of the Programme at national level, particularly with a view to ensuring coherent and cost-efficient implementation of the Programme and effective contact with the Commission in this respect, and to facilitating the possible transfer of funds between agencies, thereby allowing for flexibility and better use of funds allocated to Member States. Without prejudice to Article 29(3), each Member State shall determine how it organises the relationship between its national authority and the national agency, including tasks such as the establishment of the national agency's annual work programme.

The national authority shall provide the Commission with an appropriate ex-ante compliance assessment that the national agency complies with points (c)(v) and (vi) of Article 58(1) and Article 60(1), (2) and (3) of Regulation (EU, Euratom) No 966/2012, and Article 38 of Commission Delegated Regulation (EU) No 1268/2012⁽¹⁾, as well as with the Union requirements for internal control standards for national agencies and rules for the management of Programme funds for grant support.

5. The national authority shall designate an independent audit body as referred to in Article 30.

6. The national authority shall base its ex-ante compliance assessment on its own controls and audits, and/or on controls and audits undertaken by the independent audit body referred to in Article 30.

7. Where the national agency designated for the Programme is the same as the national agency designated for the predecessor Lifelong Learning or Youth in Action programmes, the scope of the controls and audits for the ex-ante compliance assessment may be limited to the requirements that are new and specific to the Programme.

8. The national authority shall monitor and supervise the management of the Programme at national level. It shall inform and consult the Commission in due time prior to taking any decision that may have a significant impact on the management of the Programme, in particular regarding its national agency.

9. The national authority shall provide adequate co-financing for the operations of its national agency to ensure that the Programme is managed in compliance with the applicable Union rules.

10. In the event that the Commission rejects the designation of the national agency based on its evaluation of the ex-ante compliance assessment, the national authority shall ensure that the necessary remedial steps are taken to enable the national agency to comply with the minimum requirements set by the Commission, or shall designate another body as national agency.

11. Based on the national agency's yearly management declaration, the independent audit opinion thereon and the Commission's analysis of the national agency's compliance and performance, the national authority shall provide the Commission, by 31 October of each year, with information concerning its monitoring and supervision activities in relation to the Programme.

12. The national authority shall take responsibility for the proper management of the Union funds transferred by the Commission to the national agency by way of grant support to be awarded under the Programme.

13. In the event of any irregularity, negligence or fraud attributable to the national agency, or any serious shortcomings or underperformance on the part of the national agency, where this gives rise to claims by the Commission against the national agency, the national authority shall be liable to reimburse to the Commission the funds not recovered.

14. In the circumstances described in paragraph 13, the national authority may, on its own initiative or upon request from the Commission, revoke the mandate of the national agency. Should the national authority wish to revoke that mandate for any other justified reason, it shall notify the Commission of the revocation at least six months before the envisaged date of termination of the mandate of the national agency. In such cases, the national authority and the Commission shall formally agree on specific and timed transition measures.

15. In the event of revocation, the national authority shall carry out the necessary controls regarding the Union funds entrusted to the national agency whose mandate has been revoked, and shall ensure an unimpeded transfer to the new national agency of those funds and of all documents and management tools required for the management of the Programme. The national authority shall provide the national agency whose mandate has been revoked with the necessary financial support to continue to meet its contractual obligations vis-à-vis the beneficiaries of the Programme and the Commission pending the transfer of those obligations to a new national agency.

16. If so requested by the Commission, the national authority shall designate the institutions or organisations, or the types of such institutions and organisations, to be considered eligible to participate in specific Programme actions in their respective territories.

⁽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).

*Article 28***National agency**

1. The term 'national agency' refers to one or more national agencies in accordance with national law and practice.
2. The national agency shall:
 - (a) have legal personality or be part of an entity having legal personality, and be governed by the law of the Member State concerned; a ministry may not be designated as a national agency;
 - (b) have the adequate management capacity, staff and infrastructure to fulfil its tasks satisfactorily, ensuring efficient and effective management of the Programme and sound financial management of Union funds;
 - (c) have the operational and legal means to apply the administrative, contractual and financial management rules laid down at Union level;
 - (d) offer adequate financial guarantees, issued preferably by a public authority, corresponding to the level of Union funds it will be called upon to manage;
 - (e) be designated for the duration of the Programme.
3. The national agency shall be responsible for managing all stages of the project lifecycle of the following Programme actions, in conformity with points (c)(v) and (vi) of Article 58(1) of Regulation (EU, Euratom) No 966/2012 and with Article 44 of Delegated Regulation (EU) No 1268/2012:
 - (a) learning mobility of individuals, with the exception of mobility organised on the basis of joint or double/multiple degrees, large-scale volunteering projects and the Student Loan Guarantee Facility;
 - (b) strategic partnerships within the action 'cooperation for innovation and the exchange of good practices';
 - (c) the management of small-scale activities supporting the structured dialogue in the youth field within the action 'support for policy reform'.
4. By way of derogation from paragraph 3, the selection and award decisions for the strategic partnerships referred to in point (b) of paragraph 3 may be managed at Union level, if a decision to that effect is taken in accordance with the examination procedure referred to in Article 36(3) and only in specific cases where there are clear grounds for such centralisation.

5. The national agency shall issue grant support to beneficiaries either by way of a grant agreement or a grant decision, as specified by the Commission for the Programme action concerned.

6. The national agency shall report each year to the Commission and to its national authority in accordance with Article 60(5) of Regulation (EU, Euratom) No 966/2012. The national agency shall be in charge of implementing the observations issued by the Commission following its analysis of the yearly management declaration and of the independent audit opinion thereon.

7. The national agency may not without prior written authorisation from the national authority and the Commission delegate to a third party any task of Programme or budget implementation conferred on it. The national agency shall retain sole responsibility for any tasks delegated to a third party.

8. Where the mandate of a national agency is revoked, that national agency shall remain legally responsible for meeting its contractual obligations vis-à-vis the beneficiaries of the Programme and the Commission pending the transfer of those obligations to a new national agency.

9. The national agency shall be in charge of managing and winding up the financial agreements relating to the predecessor Lifelong Learning and Youth in Action programmes that are still open at the beginning of the Programme.

*Article 29***European Commission**

1. Within two months of receipt from the national authority of the ex-ante compliance assessment referred to in Article 27(4), the Commission shall accept, conditionally accept or reject the designation of the national agency. The Commission shall not enter into a contractual relationship with the national agency until it has accepted the ex-ante compliance assessment. In the event of conditional acceptance, the Commission may apply proportionate precautionary measures to its contractual relationship with the national agency.
2. Upon accepting the ex-ante compliance assessment by the national agency designated for the Programme, the Commission shall formalise the legal responsibilities with regard to the financial agreements relating to the predecessor Lifelong Learning and Youth in Action programmes which are still open at the start of the Programme.
3. In accordance with Article 27(4), the document governing the contractual relationship between the Commission and the national agency shall:
 - (a) stipulate the internal control standards for national agencies and the rules for the management of the Union funds for grant support by the national agencies;

(b) include the national agency work programme comprising the management tasks of the national agency to which Union support is provided;

(c) specify the reporting requirements for the national agency.

4. The Commission shall each year make the following Programme funds available to the national agency:

(a) funds for grant support in the Member State concerned for the actions of the Programme the management of which is entrusted to the national agency;

(b) a financial contribution in support of the Programme management tasks of the national agency. This shall be provided in the form of a flat-rate contribution to the operational costs of the national agency and shall be established on the basis of the amount of Union funds for grant support entrusted to the national agency.

5. The Commission shall set the requirements for the national agency work programme. The Commission shall not make Programme funds available to the national agency until the Commission has formally approved the national agency's work programme.

6. On the basis of the compliance requirements for national agencies referred to in Article 27(4), the Commission shall review the national management and control systems, in particular on the basis of the ex-ante compliance assessment provided to it by the national authority, the national agency's yearly management declaration and the opinion of the independent audit body thereon, taking due account of the yearly information provided by the national authority on its monitoring and supervision activities with regard to the Programme.

7. After assessing the yearly management declaration and the opinion of the independent audit body thereon, the Commission shall address its opinion and observations thereon to the national agency and the national authority.

8. In the event that the Commission cannot accept the yearly management declaration or the independent audit opinion thereon, or in the event of unsatisfactory implementation by the national agency of the Commission's observations, the Commission may implement any precautionary and corrective measures necessary to safeguard the Union's financial interests in accordance with Article 60(4) of Regulation (EU, Euratom) No 966/2012.

9. The Commission shall organise regular meetings with the network of national agencies in order to ensure coherent implementation of the Programme across all Programme countries.

Article 30

Independent audit body

1. The independent audit body shall issue an audit opinion on the yearly management declaration referred to in Article 60(5) of Regulation (EU, Euratom) No 966/2012.

2. The independent audit body shall:

(a) have the necessary professional competence to carry out public sector audits;

(b) ensure that its audits take account of internationally accepted audit standards;

(c) not be in a position of conflict of interest with regard to the legal entity of which the national agency forms part. In particular, it shall be independent, in terms of its functions, of the legal entity of which the national agency forms part.

3. The independent audit body shall give the Commission and its representatives, as well as the Court of Auditors, full access to all documents and reports in support of the audit opinion that it issues on the national agency's yearly management declaration.

CHAPTER IX

Control system

Article 31

Principles of the control system

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of measures to prevent fraud, corruption and any other illegal activities, by effective controls and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive penalties.

2. The Commission shall be responsible for the supervisory controls with regard to the Programme actions and activities managed by the national agencies. It shall set the minimum requirements for the controls by the national agency and the independent audit body.

3. The national agency shall be responsible for the primary controls of grant beneficiaries for the Programme actions and activities referred to in Article 28(3). Those controls shall give reasonable assurance that the grants awarded are used as intended and in compliance with the applicable Union rules.

4. With regard to the Programme funds transferred to the national agencies, the Commission shall ensure proper coordination of its controls with the national authorities and the

national agencies, on the basis of the single audit principle and following a risk-based analysis. This provision shall not apply to investigations carried out by the European Anti-Fraud Office (OLAF).

Article 32

Protection of the financial interests of the Union

1. The Commission or its representatives and the Court of Auditors shall have the power to conduct audits, on the basis of documents and on the spot, in relation to all grant beneficiaries, contractors, subcontractors and other third parties who have received Union funds. They may also conduct audits and carry out controls in relation to the national agencies.

2. OLAF may carry out on-the-spot controls and inspections of economic operators concerned directly or indirectly by such funding in accordance with the procedure laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾, 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 concerning Union funding.

3. Without prejudice to paragraphs 1 and 2, cooperation agreements with third countries and international organisations, and grant agreements, grant decisions and contracts resulting from the implementation of this Regulation, shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits and carry out on-the-spot controls and inspections.

CHAPTER X

Delegation of powers and implementing provisions

Article 33

Delegation of powers to the Commission

In order to place the management of tasks at the most appropriate level, the Commission shall be empowered to adopt delegated acts in accordance with Article 34 concerning the amendment of Article 28(3), but only in respect of providing for additional actions to be managed by the national agencies.

Article 34

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 33 shall be conferred on the Commission for the duration of the Programme.

⁽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).

3. The delegation of power referred to in Article 33 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 33 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 35

Implementation of the Programme

In order to implement the Programme, the Commission shall adopt annual work programmes by way of implementing acts in accordance with the examination procedure referred to in Article 36(3). Each annual work programme shall ensure that the general and specific objectives set out in Articles 4, 5, 11 and 16 are implemented annually in a consistent manner and shall outline the expected results, the method of implementation and its total amount. The annual work programmes shall also contain a description of the actions to be financed, an indication of the amount allocated to each action and of the distribution of funds between the Member States for the actions to be managed through the national agencies, and an indicative implementation timetable. They shall include, in the case of grants, the maximum rate of co-financing, which shall take into account the specificities of the target groups, in particular their co-financing capacity and the possibilities of attracting funding from third parties. In particular, for actions targeting organisations with limited financial capacities, the rate of co-financing shall be set at least at 50 %.

Article 36

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. The committee may meet in specific configurations to deal with sectoral issues. Where appropriate, in accordance with its rules of procedure and on an ad hoc basis, external experts, including representatives of the social partners, may be invited to participate in its meetings as observers.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER XI

Final provisions

Article 37

Repeal and transitional provisions

1. Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC shall be repealed with effect from 1 January 2014.

2. Actions initiated on or before 31 December 2013 on the basis of Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC shall be administered, where relevant, in conformity with the provisions of this Regulation.

3. Member States shall ensure at national level the unimpeded transition between the actions carried out in the context of the previous programmes in the fields of lifelong learning, youth and international cooperation in higher education and those to be implemented under the Programme.

Article 38

Entry into force

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

ANNEX I

INDICATORS FOR THE EVALUATION OF THE PROGRAMME

The Programme will be monitored closely on the basis of a set of indicators intended to measure the extent to which the general and specific objectives of the Programme have been achieved and with a view to minimising administrative burdens and costs. To that end, data will be collected as regards the following set of key indicators:

Europe 2020 headline education target	The percentage of 18-24 year-olds with only lower-secondary education who are not enrolled in education or training
	The percentage of 30-34 year-olds with completed tertiary or equivalent education
Mobility benchmark, in line with the Council conclusions on a benchmark for learning mobility	The percentage of higher education graduates who have had a period of higher education-related study or training (including work placements) abroad
	The percentage of 18-34 year-olds with an initial vocational education and training qualification who have had an initial vocational education and training-related study or training period (including work placements) abroad
Quantitative (general)	The number of staff supported by the Programme, by country and by sector
	The number of participants with special needs or fewer opportunities
	The number and type of organisations and projects, by country and by action
Education and training	The number of pupils, students and trainees participating in the Programme, by country, sector, action and gender
	The number of higher education students receiving support to study in a partner country, as well as the number of students from a partner country coming to study in a Programme country
	The number of partner country higher education institutions involved in mobility and cooperation actions
	The number of users of Euroguidance
	The percentage of participants who have received a certificate, diploma or other kind of formal recognition of their participation in the Programme
	The percentage of participants declaring that they have increased their key competences
	The percentage of participants in long-term mobility declaring that they have increased their language skills
Jean Monnet	The number of students receiving training through Jean Monnet activities
Youth	The number of young people engaged in mobility actions supported by the Programme, by country, action and gender
	The number of youth organisations from both Programme countries and partner countries involved in international mobility and cooperation actions
	The number of users of the Eurodesk network
	The percentage of participants who have received a certificate – for example a Youthpass –, diploma or other kind of formal recognition of their participation in the Programme

	The percentage of participants declaring that they have increased their key competences
	The percentage of participants in voluntary activities declaring that they have increased their language skills
Sport	Size of membership of sport organisations applying for, and taking part in, the Programme, by country
	The percentage of participants who have used the results of cross-border projects to: (a) combat threats to sport; (b) improve good governance and dual careers; (c) enhance social inclusion, equal opportunities and participation rates

ANNEX II

TECHNICAL INFORMATION CONCERNING THE STUDENT LOAN GUARANTEE FACILITY

1. Selection of financial intermediaries

Following a call for expressions of interest, financial intermediaries shall be selected in conformity with best market practice, having regard to, inter alia:

- (a) the volume of financing to be made available to students;
- (b) the most favourable possible terms offered to students, subject to compliance with the minimum standards of lending as set out in paragraph 2;
- (c) access to finance by all residents of Programme countries as referred to in Article 24(1);
- (d) fraud prevention measures; and
- (e) adherence to Directive 2008/48/EC of the European Parliament and of the Council ⁽¹⁾.

2. Protection for borrowers

The following safeguards are the minimum terms which must be provided by financial intermediaries wishing to provide student loans guaranteed by the Student Loan Guarantee Facility:

- (a) no collateral or parental guarantee shall be requested;
- (b) loans shall be granted on a non-discriminatory basis;
- (c) as part of the assessment process, the financial intermediary shall consider the student's risk of over-indebtedness, taking into account levels of accrued debt and any judicial decision relating to an unpaid debt; and
- (d) repayment shall be based upon a hybrid model combining 'mortgage-based' standardised payments with social safeguards, in particular:
 - (i) an interest rate that is significantly lower than the market rate;
 - (ii) an initial grace period before the commencement of repayments, lasting a minimum of 12 months after the end of the study programme or, where national law does not provide for such delays, a provision whereby nominal repayments are to be made during that 12-month period;
 - (iii) a provision for a 'repayment holiday' of a minimum duration of 12 months over the lifetime of the loan, which can be invoked at the graduate's request, or, where national law does not provide for such delays, a provision whereby nominal repayments are to be made during that 12-month period;
 - (iv) an option to defer the payment of interest during the study period;
 - (v) insurance against death or disability; and
 - (vi) no penalties for early total or partial repayment.

Financial intermediaries may offer income-contingent repayments, as well as improved terms such as longer grace periods, longer 'repayment holidays' or later maturity, to take into account specific needs of graduates, such as those who subsequently pursue doctoral studies, or to allow graduates more time in which to find employment. The provision of such improved terms shall be taken into consideration in the procedure for the selection of financial intermediaries.

3. Monitoring and evaluation

The Student Loan Guarantee Facility shall be subject to monitoring and evaluation, as referred to in Article 21 of this Regulation, and on the basis of Article 140(8) of Regulation (EU, Euratom) No 966/2012.

⁽¹⁾ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

As part of this process, the Commission shall report on the effects of the Student Loan Guarantee Facility on beneficiaries and on higher education systems. The Commission's report shall include, inter alia, data on, as well as proposed measures to deal with any areas of concern with regard to:

- (a) the number of students in receipt of loans backed by the Student Loan Guarantee Facility, including data on their completion rates;
- (b) the volume of lending contracted by financial intermediaries;
- (c) the level of interest rates;
- (d) outstanding debt and default levels, including any measures taken by financial intermediaries against those who default on their loans;
- (e) fraud prevention measures taken by financial intermediaries;
- (f) the profile of students supported, including their socio-economic background, subject of study, country of origin and country of destination, in accordance with national data protection legislation;
- (g) geographical balance of uptake; and
- (h) geographical coverage of financial intermediaries.

Notwithstanding the powers conferred on the European Parliament and the Council by Article 140(9) of Regulation (EU, Euratom) No 966/2012, the Commission shall consider proposing appropriate regulatory changes, including legislative changes, if the predicted market uptake or the participation of financial intermediaries is not satisfactory.

4. Budget

The budgetary allocation shall cover the full cost of the Student Loan Guarantee Facility, including payment obligations towards participating financial intermediaries calling upon the partial guarantees and management fees for the EIF.

The budget assigned to the Student Loan Guarantee Facility, as referred to in point (c) of Article 18(2), shall be no more than 3,5 % of the total budget for the Programme.

5. Visibility and awareness-raising

Each participating financial intermediary shall contribute to the promotion of the Student Loan Guarantee Facility by providing information to prospective students. To that end, the Commission shall, inter alia, provide national agencies in Programme countries with the necessary information to enable them to act as conduits for information concerning the Student Loan Guarantee Facility.

**REGULATION (EU) No 1289/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement

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 point (a) of Article 77(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) The reciprocity mechanism to be implemented if a third country listed in Annex II to Council Regulation (EC) No 539/2001 ⁽²⁾ applies a visa requirement for nationals of at least one Member State needs to be adapted in the light of the entry into force of the Treaty of Lisbon and of the case-law of the Court of Justice of the European Union on secondary legal bases. In addition, that mechanism needs to be adapted to provide for a Union response as an act of solidarity, if a third country listed in Annex II to Regulation (EC) No 539/2001 applies a visa requirement for nationals of at least one Member State.
- (2) Upon receipt of a notification from a Member State that a third country listed in Annex II to Regulation (EC) No 539/2001 applies a visa requirement for nationals of that Member State, all Member States should react in common, thus providing a Union response to a situation which affects the Union as a whole and subjects its citizens to differing treatment.
- (3) Full visa reciprocity is an objective which the Union should pursue in a proactive manner in its relations with third countries, thus contributing to improving the credibility and consistency of the Union's external policy.
- (4) This Regulation should establish a mechanism for the temporary suspension of the exemption from the visa

requirement for a third country listed in Annex II to Regulation (EC) No 539/2001 ("the suspension mechanism") in an emergency situation, where an urgent response is needed in order to resolve the difficulties faced by at least one Member State, and taking account of the overall impact of the emergency situation on the Union as a whole.

- (5) For the purposes of the suspension mechanism, a substantial and sudden increase indicates an increase exceeding a threshold of 50 %. It may also indicate a lower increase if the Commission deems it applicable in the particular case notified by the Member State concerned.
- (6) For the purposes of the suspension mechanism, a low recognition rate indicates a recognition rate of asylum applications of around 3 or 4 %. It may also indicate a higher recognition rate if the Commission deems it applicable in the particular case notified by the Member State concerned.
- (7) It is necessary to avoid and counter any abuse resulting from exemption from the visa requirement for short-stay visits for nationals of a third country where they pose a threat to the public policy (*ordre public*) and internal security of the Member State concerned.
- (8) This Regulation should provide a legal basis for the visa requirement or for the exemption from that requirement for holders of travel documents issued by certain entities recognised by the Member State concerned as subjects of international law which are not intergovernmental international organisations.
- (9) As the rules applicable for refugees and stateless persons introduced by Council Regulation (EC) No 1932/2006 ⁽³⁾, do not apply to such persons when they are residing in the United Kingdom or Ireland, it is necessary to clarify the situation concerning the visa requirement for certain refugees and stateless persons who reside in the United Kingdom or in Ireland. This Regulation should leave Member States free to decide on the exemption from the visa requirement for that category of persons in compliance with their international obligations. The Member States should notify such decisions to the Commission.

⁽¹⁾ Position of the European Parliament of 12 September 2013 (not yet published in the Official Journal) and decision of the Council of 5 December 2013.

⁽²⁾ Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

⁽³⁾ Council Regulation (EC) No 1932/2006 of 21 December 2006 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 405, 30.12.2006, p. 23).

- (10) Regulation (EC) No 539/2001 should be without prejudice to application of international agreements concluded by the European Community before the entry into force of that Regulation which imply the need to derogate from the common visa rules, while taking into account the case-law of the Court of Justice of the European Union.
- (11) In order to ensure the adequate involvement of the European Parliament and of the Council in the second phase of application of the reciprocity mechanism, given the particularly sensitive political nature of the suspension of the exemption from the visa requirement for all the nationals of a third country listed in Annex II to Regulation (EC) No 539/2001 and its horizontal implications for the Member States, the Schengen associated countries and the Union itself, in particular for their external relations and for the overall functioning of the Schengen area, the power to adopt acts in accordance with Article 290 of the Treaty of the Functioning of the European Union should be delegated to the Commission in respect of certain elements of the reciprocity mechanism. Conferring such power on the Commission takes into account the need for political discussion on the Union policy on visas in the Schengen area. It reflects also the need to ensure adequate transparency and legal certainty in the application of the reciprocity mechanism to all the nationals of the third country concerned, in particular through the corresponding temporary amendment of Annex II to Regulation (EC) No 539/2001. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of the relevant documents to the European Parliament and to the Council.
- (12) In order to ensure the efficient application of the suspension mechanism and of certain provisions of the reciprocity mechanism and in particular in order to allow for all relevant factors and the possible implications of the application of those mechanisms to be adequately taken into account, implementing powers should be conferred on the Commission with regard to the determination of the categories of nationals of the third country concerned who should be subject to a temporary suspension of the exemption from the visa requirement within the framework of the reciprocity mechanism, and of the corresponding duration of that suspension, as well as the powers to implement the suspension mechanism. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹⁾. The examination procedure should be used for the adoption of such implementing acts.
- (13) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the
- Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*⁽²⁾ which fall within the area referred to in Article 1, point (B), of Council Decision 1999/437/EC⁽³⁾.
- (14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*⁽⁴⁾ which fall within the area referred to in Article 1, point (B), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC⁽⁵⁾.
- (15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*⁽⁶⁾ which fall within the area referred to in Article 1, point (B), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU⁽⁷⁾.
- (16) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁽⁸⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

⁽²⁾ OJ L 176, 10.7.1999, p. 36.

⁽³⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

⁽⁴⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁵⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁽⁶⁾ OJ L 160, 18.6.2011, p. 21.

⁽⁷⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

⁽⁸⁾ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (17) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽¹⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (18) Regulation (EC) No 539/2001 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 539/2001 is hereby amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 4 is replaced by the following:

"4. Where a third country listed in Annex II applies a visa requirement for nationals of at least one Member State, the following provisions shall apply:

(a) within 30 days of the implementation by the third country of the visa requirement or, in cases where the visa requirement existing on 9 January 2014 is maintained, within 30 days of that date, the Member State concerned shall notify the European Parliament, the Council and the Commission thereof in writing.

That notification:

- (i) shall specify the date of implementation of the visa requirement and the types of travel documents and visas concerned;
- (ii) shall include a detailed explanation of the preliminary measures that the Member State concerned has taken with a view to ensuring visa-free travel with the third country in question and all relevant information.

Information about that notification shall be published without delay by the Commission in the *Official Journal of the European Union*, including information on the date of implementation of the visa requirement and the types of travel documents and visas concerned.

If the third country decides to lift the visa requirement before the expiry of the deadline referred to in the first subparagraph of this point, the notification shall not be made or shall be withdrawn and the information shall not be published;

(b) the Commission shall, immediately following the date of the publication referred to in the third subparagraph of point (a) and in consultation with the Member State concerned, take steps with the authorities of the third country in question, in particular in the political, economic and commercial fields, in order to restore or introduce visa-free travel and shall inform the European Parliament and the Council of those steps without delay;

(c) if within 90 days of the date of the publication referred to in the third subparagraph of point (a) and despite all the steps taken in accordance with point (b), the third country has not lifted the visa requirement, the Member State concerned may request the Commission to suspend the exemption from the visa requirement for certain categories of nationals of that third country. Where a Member State makes such a request, it shall inform the European Parliament and the Council thereof;

(d) the Commission shall, when considering further steps in accordance with point (e), (f) or (h), take into account the outcome of the measures taken by the Member State concerned with a view to ensuring visa-free travel with the third country in question, the steps taken in accordance with point (b), and the consequences of the suspension of the exemption from the visa requirement for the external relations of the Union and its Member States with the third country in question;

(e) if the third country concerned has not lifted the visa requirement, the Commission shall, at the latest six months of the date of the publication referred to in the third subparagraph of point (a) and subsequently at intervals not exceeding six months within a total period which may not extend beyond the date on which the delegated act referred to in point (f) takes effect or is objected to:

(i) adopt, at the request of the Member State concerned or on its own initiative, an implementing act temporarily suspending the exemption from the visa requirement for certain categories of nationals of the third country concerned for a period of up to six months. That implementing act shall determine a date, within 90 days of its entry into force, on which the suspension of the exemption from the visa requirement is to take effect, taking into account the available resources in the consulates of the Member States. When adopting subsequent implementing acts, the Commission may extend the period of that suspension by further periods of up to six months and may modify the categories of nationals of the third country in question for which the exemption from the visa requirement is suspended.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 4a(2). Without prejudice to the application of Article 4, during the periods of suspension all the categories of

⁽¹⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

nationals of the third country referred to in the implementing act shall be required to be in possession of a visa when crossing the external borders of the Member States; or

- (ii) submit to the committee referred to in Article 4a(1) a report assessing the situation and stating the reasons why it decided not to suspend the exemption from the visa requirement and inform the European Parliament and the Council thereof.

All relevant factors, such as those referred to in point (d), shall be taken into account in that report. The European Parliament and the Council may have a political discussion on the basis of that report;

- (f) if within 24 months of the date of the publication referred to in the third subparagraph of point (a), the third country concerned has not lifted the visa requirement, the Commission shall adopt a delegated act in accordance with Article 4b temporarily suspending the application of Annex II for a period of 12 months for the nationals of that third country. The delegated act shall determine a date, within 90 days of its entry into force, on which the suspension of the application of Annex II is to take effect, taking into account the available resources in the consulates of the Member States and shall amend Annex II accordingly. That amendment shall be made through inserting next to the name of the third country in question a footnote indicating that the exemption from the visa requirement is suspended with regard to that third country and specifying the period of that suspension.

As of the date when the suspension of the application of Annex II for the nationals of the third country concerned takes effect or when an objection to the delegated act is expressed pursuant to Article 4b(5), any implementing act adopted pursuant to point (e) concerning that third country shall expire.

Where the Commission submits a legislative proposal as referred to in point (h), the period of suspension referred to in the first subparagraph of this point shall be extended by six months. The footnote referred to in that subparagraph shall be amended accordingly.

Without prejudice to the application of Article 4, during the periods of that suspension the nationals of the third country concerned by the delegated act shall be required to be in possession of a visa when crossing the external borders of the Member States;

- (g) any subsequent notification made by another Member State pursuant to point (a) concerning the same third country during the period of application of measures adopted pursuant to point (e) or (f) with regard to that third country shall be merged

into the ongoing procedures without the deadlines or periods set out in those points being extended;

- (h) if within six months of the entry into force of the delegated act referred to in point (f) the third country in question has not lifted the visa requirement, the Commission may submit a legislative proposal for amending this Regulation in order to transfer the reference to the third country from Annex II to Annex I;
- (i) the procedures referred to in points (e), (f) and (h) shall not affect the right of the Commission to submit at any time a legislative proposal for amending this Regulation in order to transfer the reference to the third country concerned from Annex II to Annex I;
- (j) where the third country in question lifts the visa requirement, the Member State concerned shall immediately notify the European Parliament, the Council and the Commission thereof. The notification shall be published without delay by the Commission in the *Official Journal of the European Union*.

Any implementing or delegated act adopted pursuant to point (e) or (f) concerning the third country in question shall expire seven days after the publication referred to in the first subparagraph of this point. Where the third country in question has introduced a visa requirement for nationals of two or more Member States, the implementing or delegated act concerning that third country shall expire seven days after the publication of the notification concerning the last Member State whose nationals were subject to visa requirement by that third country. The footnote referred to in the first subparagraph of point (f) shall be deleted upon expiry of the delegated act concerned. The information on that expiry shall be published without delay by the Commission in the *Official Journal of the European Union*.

Where the third country in question lifts the visa requirement without the Member State concerned notifying it in accordance with the first subparagraph of this point, the Commission shall on its own initiative proceed without delay with the publication referred to in that subparagraph, and the second subparagraph of this point shall apply.";

- (b) paragraph 5 is deleted;

- (2) the following Articles are inserted:

"Article 1a

1. By way of derogation from Article 1(2), the exemption from the visa requirement for nationals of a third country listed in Annex II shall be temporarily suspended in emergency situations, as a last resort, in accordance with this Article.

2. A Member State may notify the Commission if it is confronted, over a six-month period, in comparison with the same period in the previous year or with the last six months prior to the implementation of the exemption from the visa requirement for nationals of a third country listed in Annex II, with one or more of the following circumstances leading to an emergency situation which it is unable to remedy on its own, namely a substantial and sudden increase in the number of:

- (a) nationals of that third country found to be staying in the Member State's territory without a right thereto;
- (b) asylum applications from the nationals of that third country for which the recognition rate is low, where such an increase is leading to specific pressures on the Member State's asylum system;
- (c) rejected readmission applications submitted by the Member State to that third country for its own nationals.

The comparison with the six-month period prior to the implementation of the exemption from the visa requirement as referred to in the first subparagraph shall only be applicable during a period of seven years from the date of implementation of the exemption from the visa requirement for nationals of that third country.

The notification referred to in the first subparagraph shall state the reasons on which it is based and shall include relevant data and statistics as well as a detailed explanation of the preliminary measures that the Member State concerned has taken with a view to remedying the situation. The Commission shall inform the European Parliament and the Council immediately of such notification.

3. The Commission shall examine any notification made pursuant to paragraph 2, taking into account:

- (a) whether any of the situations described in paragraph 2 are present;
- (b) the number of Member States affected by any of the situations described in paragraph 2;
- (c) the overall impact of the increases referred to in paragraph 2 on the migratory situation in the Union as it appears from the data provided by the Member States;
- (d) the reports prepared by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union,

the European Asylum Support Office or the European Police Office (Europol) if circumstances so require in the specific case notified;

- (e) the overall question of public policy and internal security, in consultations with the Member State concerned.

The Commission shall inform the European Parliament and the Council of the results of its examination.

4. Where the Commission, on the basis of the examination referred to in paragraph 3, and taking into account the consequences of a suspension of the exemption from the visa requirement for the external relations of the Union and its Member States with the third country concerned, while working in close cooperation with that third country to find alternative long-term solutions, decides that action is needed, it shall, within three months of receipt of the notification referred to in paragraph 2, adopt an implementing act temporarily suspending the exemption from the visa requirement for the nationals of the third country concerned for a period of six months. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 4a(2). The implementing act shall determine the date on which the suspension of the exemption from the visa requirement is to take effect.

Without prejudice to the application of Article 4, during the periods of that suspension the nationals of the third country concerned by the implementing act shall be required to be in possession of a visa when crossing the external borders of the Member States.

5. Before the end of the period of validity of the implementing act adopted pursuant to paragraph 4, the Commission, in cooperation with the Member State concerned, shall submit a report to the European Parliament and to the Council. The report may be accompanied by a legislative proposal for amending this Regulation in order to transfer the reference to the third country concerned from Annex II to Annex I.

6. Where the Commission has submitted a legislative proposal pursuant to paragraph 5, it may extend the validity of the implementing act adopted pursuant to paragraph 4 by a period not exceeding 12 months. The decision to extend the validity of the implementing act shall be adopted in accordance with the examination procedure referred to in Article 4a(2).

Article 1b

By 10 January 2018, the Commission shall submit a report to the European Parliament and to the Council assessing the effectiveness of the reciprocity mechanism provided for in Article 1(4) and the suspension mechanism provided for in Article 1a and shall, if necessary, submit a legislative proposal for amending this Regulation. The European Parliament and the Council shall act on such a proposal by the ordinary legislative procedure.";

(3) Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. A Member State may provide for exceptions from the visa requirement provided for by Article 1(1) or from the exemption from the visa requirement provided for by Article 1(2) as regards:

- (a) holders of diplomatic passports, service/official passports or special passports;
- (b) civilian air and sea crew members in the performance of their duties;
- (c) civilian sea crew members, when they go ashore, who hold a seafarer's identity document issued in accordance with the International Labour Organisation Conventions No 108 of 13 May 1958 or No 185 of 16 June 2003 or the International Maritime Organisation Convention on Facilitation of International Maritime Traffic of 9 April 1965;
- (d) crew and members of emergency or rescue missions in the event of disaster or accident;
- (e) civilian crew of ships navigating in international inland waters;
- (f) holders of travel documents issued by intergovernmental international organisations of which at least one Member State is member, or by other entities recognised by the Member State concerned as subjects of international law, to officials of those organisations or entities.";

(b) in paragraph 2 the following point is added:

"(d) without prejudice to the requirements stemming from the European Agreement on the Abolition of Visas for Refugees signed at Strasbourg on 20 April 1959, recognised refugees and stateless persons and other persons who do not hold the nationality of any country who reside in the United Kingdom or in Ireland and are holders of a travel document issued by the United Kingdom or Ireland, which is recognised by the Member State concerned.";

(4) the following Articles are inserted:

"Article 4a

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council (*).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 4b

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in point (f) of Article 1(4) shall be conferred on the Commission for a period of five years from 9 January 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in point (f) of Article 1(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to point (f) of Article 1(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of four months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)."

Article 2

Article 1a of Regulation (EC) No 539/2001 as amended by this Regulation, and in particular the provisions of the second subparagraph of paragraph 2 thereof, shall apply also to third countries with regard to whose nationals the exemption from the visa requirement was introduced before 9 January 2014.

Article 3

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 the Member States in accordance with the Treaties.

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

**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

(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 Articles 173, 183, 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 Court of Auditors ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" ("Horizon 2020") is established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽⁴⁾. That Regulation needs to be complemented by rules for participation in indirect actions undertaken under Horizon 2020, and for exploitation and dissemination of the results of those actions.

(2) Horizon 2020 should be implemented with a view to contributing directly to creating industrial leadership, growth and employment as well as citizens' welfare in Europe, and should reflect the strategic vision of the Commission Communication of 6 October 2010 entitled "Europe 2020 Flagship Initiative Innovation", in which the Commission commits itself to radically simplify access for participants.

⁽¹⁾ OJ C 318, 20.10.2012, p. 1.

⁽²⁾ OJ C 181, 21.6.2012, p. 111.

⁽³⁾ Position of the European Parliament of 21 November 2013 (not yet published in the Official Journal)

⁽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 to 2020) and repealing Decision 1982/2006/EC (See page 104 of this Official Journal).

(3) Horizon 2020 should support the achievement and functioning of the European Research Area in which researchers, scientific knowledge and technology circulate freely, by strengthening cooperation both between the Union and the Member States, and among the Member States, in particular through the application of a coherent set of rules.

(4) The rules for participation, exploitation and dissemination in Horizon 2020 laid down in this Regulation ("the Rules") should adequately reflect the recommendations of the European Parliament in its resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes ⁽⁵⁾, and of the Council with regard to the simplification of the administrative and financial requirements of the research framework programmes. The Rules should provide continuity to the simplification measures already implemented under Decision No 1982/2006/EC of the European Parliament and of the Council ⁽⁶⁾. They should take up the recommendations made in the final report of the Expert Group entitled 'Interim Evaluation of the 7th Framework Programme' of 12 November 2010 and they should enable further progress in reducing the administrative burden for participants and the complexity of the financial provisions in order to facilitate participation and reduce the number of financial errors. The Rules should also duly reflect the concerns raised and recommendations made by the research community resulting from the debate initiated by the Commission Communication of 29 April 2010 entitled "Simplifying the implementation of the research framework programmes", and the subsequent Green Paper of 9 February 2011 entitled "From Challenges to Opportunities: Towards a Common Strategic Framework for EU Research and Innovation funding".

(5) The interim evaluation of Horizon 2020 should include an evaluation of the new funding model, including its impact on funding levels, on participation in Horizon 2020 and on the attractiveness of Horizon 2020.

(6) The Commission or the relevant funding body should ensure that guidance and information is made available to all potential participants at the time of publication of the call for proposals.

⁽⁵⁾ OJ C 74E, 13.3.2012, p. 34.

⁽⁶⁾ 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).

- (7) In order to ensure coherence with other Union funding programmes, Horizon 2020 should be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾, and Commission Delegated Regulation (EU) 1268/2012 ⁽²⁾, taking due account of the specific nature of research and innovation activities.
- (8) An integrated approach should be ensured by bringing together activities covered by the Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) adopted by Decision No 1982/2006/EC, the Competitiveness and Innovation Framework Programme established by Decision No 1639/2006/EC of the European Parliament and of the Council ⁽³⁾ and the European Institute of Innovation and Technology (the EIT) established by Regulation (EC) No 294/2008 of the European Parliament and of the Council ⁽⁴⁾ to make participation easier, create a more coherent set of instruments and increase the scientific and economic impact, while avoiding duplication and fragmentation. Common rules should apply in order to ensure a coherent framework which should facilitate participation in programmes receiving Union financial contributions from the budget of Horizon 2020, including participation in programmes managed by the EIT, joint undertakings or any other structures under Article 187 of the Treaty on the Functioning of the European Union (TFEU), and participation in programmes undertaken by Member States pursuant to Article 185 TFEU.
- (9) Actions which fall within the scope of this Regulation should respect fundamental rights and observe the principles acknowledged in particular by the Charter of Fundamental Rights of the European Union. Such actions should be in conformity with any legal obligation including international law and with any relevant Commission decisions such as the Commission notice of 28 June 2013 ⁽⁵⁾, as well as with ethical principles, which include avoiding any breach of research integrity.
- (10) In line with the objectives of international cooperation as set out in Articles 180 and 186 TFEU, the participation of legal entities established in third countries and of international organisations should be promoted. The implementation of the Rules should be in conformity with the measures adopted in accordance with Articles 75 and 215 TFEU and should be in compliance with international law. Moreover, the implementation of the Rules should duly take into account the conditions for the participation of Union entities in third countries' corresponding programmes.
- (11) The Rules should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access by all participants through simplified procedures, in particular with regard to micro-, small-, and medium-sized enterprises (SMEs). The financial assistance from the Union could be provided in various forms.

However, flexibility to adopt specific rules should be ensured when justified by the specific needs of the respective actions. In order to take into account the specific operating needs as identified in the framework of the relevant basic act of the bodies set up under Article 187 TFEU, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (12) In line with the principle of transparency and in addition to the publicity requirement set out in Regulation (EU, Euratom) No 966/2012 and in Regulation (EU) No 1268/2012, the Commission should publish open calls for proposals on the internet pages of Horizon 2020, through specific information channels, and should ensure their wide dissemination, including via national contact points and upon request in accessible formats, where practicable.
- (13) The selection and award criteria laid down in this Regulation should be applied in a transparent way and based on objective and measurable parameters, taking into account the overall aim of Horizon 2020 to achieve a well-functioning European Research Area.
- (14) In general, the period between the final date for the submission of complete proposals and the signing of grant agreements with applicants or notifying grant decisions to them should be shorter than the period provided for in Regulation (EU, Euratom) No 966/2012. In duly justified cases and for actions of the European Research Council a longer period should be allowed.

⁽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 29.10.2012 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).

⁽³⁾ Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15).

⁽⁴⁾ Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology (OJ L 97, 9.4.2008, p. 1).

⁽⁵⁾ OJ C 205, 19.7.2013, p. 9.

- (15) The Commission should continue its efforts to simplify the procedures in ways made possible by the improvement of IT systems, such as the further expansion of the portal for participants which should function as the single entry point from the moment of publication of the calls for proposals, through submission of proposals, until implementation of the action, with the aim of establishing a one-stop shop. The system may also provide feedback to applicants on the progress and the timeline of their applications.
- (16) The handling of confidential data and classified information should be governed by all relevant Union law, including the Institutions' internal rules, such as Commission Decision 2001/844/EC, ECSC, Euratom⁽¹⁾ which lays down the provisions on security of European Union classified information.
- (17) It is necessary to establish the minimum conditions for participation, both as a general rule and with regard to the specificities of the actions under Horizon 2020. In particular, rules should be laid down regarding the number of participants and their places of establishment. In the case of an action without the participation of an entity established in a Member State, the attainment of the objectives laid down in Articles 173 and 179 TFEU should be pursued.
- (18) Pursuant to Council Decision 2001/822/EC⁽²⁾, legal entities of overseas countries and territories are eligible to participate in Horizon 2020 subject to the specific conditions laid down in the latter.
- (19) The Commission should consider the timings of calls for proposals and requests for information taking into account, where possible, standard holiday periods.
- (20) In the case of unsuccessful proposals, the Commission should give feedback to the applicants concerned.
- (21) Clear and transparent mechanisms to develop calls for proposals on specific topics should enable a level playing field, increase the attractiveness of Horizon 2020 and increase participation.
- (22) The Commission should in all aspects of Horizon 2020 act in accordance with the principles of the European Code of Good Administrative Behaviour as set out in the annex to Commission Decision 2000/633/EC, ECSC, Euratom⁽³⁾.
- (23) It is appropriate to establish the terms and conditions for providing Union funding to participants in actions under Horizon 2020. In order to reduce the complexity of the existing funding rules, a simplified cost reimbursement system should be adopted with enhanced use of lump sums, flat rates and unit costs.
- (24) The reimbursement rates in this Regulation are referred to as maximums in order to comply with the non-profit requirement and the co-financing principle, and to allow participants to request a lower rate. In principle, the reimbursement rates should however be 100 % or 70 %.
- (25) The OECD definitions regarding Technological Readiness Level (TRL) should be taken into account in the classification of technological research, product development and demonstration activities.
- (26) Specific challenges in the area of research and innovation should be addressed through new forms of funding such as prizes, pre-commercial procurement, public procurement of innovative solutions, the SME Instrument and the Fast Track to Innovation actions, which require specific rules.
- (27) In order to maintain a level playing field for all undertakings active in the internal market, funding provided by Horizon 2020 should be designed in accordance with 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. Care should be taken to ensure that funding of innovation actions neither distorts competition nor leads to market interference without sufficient cause.
- (28) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, ensuring an appropriate balance between trust and control.
- (29) In accordance with Regulation (EU, Euratom) No 966/2012, the Rules should provide the basis for a wider acceptance of the usual cost accounting practices of the beneficiaries.

⁽¹⁾ 2001/844/EC, ECSC, Euratom: Commission Decision of 29 November 2001 amending its internal Rules of Procedure (OJ L 317, 3.12.2001).

⁽²⁾ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ('Overseas Association Decision') (OJ L 314, 30.11.2001, p. 1).

⁽³⁾ 2000/633/EC, ECSC, Euratom: Commission Decision of 17 October 2000 amending its Rules of Procedure (OJ L 267, 20.10.2000, p. 63).

- (30) The participant Guarantee Fund set up under Regulation (EC) No 1906/2006 of the European Parliament and of the Council ⁽¹⁾ and managed by the Commission has proved to be an important safeguard mechanism which mitigates the risks associated with the amounts due and not reimbursed by defaulting participants. Therefore, a new participant Guarantee Fund ("the Fund") should be established. In order to ensure more efficient management and better coverage of participants' risk, the Fund should cover actions under the programme set up under Decision No 1982/2006/EC, under the programme set up by Council Decision 2006/970/Euratom ⁽²⁾, under the programme set up by Council Decision 2012/93/Euratom ⁽³⁾ as well as actions under Horizon 2020 and Regulation (Euratom) No 1314/2013 of the Council ⁽⁴⁾. Programmes managed by entities other than Union funding bodies should not be covered by the Fund.
- (31) In order to enhance transparency, the names of experts that have assisted the Commission or relevant funding bodies in the application of this Regulation should be published. Where the publication of the name would endanger the security or integrity of the expert or would unduly prejudice his or her privacy, the Commission or funding bodies should be able to refrain from the publication of such names.
- (32) Personal data relating to the experts should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽⁵⁾.
- (33) Rules governing the exploitation and dissemination of results should be laid down to ensure that participants protect, exploit and disseminate those results as appropriate, and to provide for the possibility of additional exploitation conditions in the European strategic interest. Participants that have received Union funding, and that plan to exploit the results generated with such funding primarily in third countries not associated with Horizon 2020, should indicate how the Union funding will benefit Europe's overall competitiveness (reciprocity principle), as set out in the grant agreement.
- (34) In the case of research with the potential for further development into a novel medical technology (such as drugs, vaccines and medical diagnostics), measures should be taken to ensure the immediate exploitation and dissemination of the results, where appropriate.
- (35) Despite the success of existing Union debt and equity financial instruments for research, development, innovation and growth, access to risk finance remains a key issue, in particular for innovative SMEs. In order to allow their most effective use, debt and equity financial instruments should be allowed to be combined with each other and with grants funded under the Union budget, including under Horizon 2020. Moreover, the Commission should, in particular, ensure continuity of the Risk-Sharing Finance Facility (RSFF) set up under Decision No 1982/2006/EC and the early stage part of the High-Growth and Innovative SME Facility (GIF1) set up under Decision No 1639/2006/EC within their succeeding debt and equity financial instruments under Horizon 2020, respectively the 'Union loan & guarantee service for Research and innovation' and the 'Union Equity Instruments for research and innovation'. In this context, revenues and repayments generated by any of those financial instruments should directly benefit the financial instruments set up under Horizon 2020.
- (36) The Commission should ensure sufficient complementarities between the SME instrument under Horizon 2020 and the financial instruments under Horizon 2020 and the COSME programme established under Regulation (EU) No 1287/2013 of the European Parliament and of the Council ⁽⁶⁾, as well as with schemes and instruments set up jointly with Member States, such as the Eurostars Joint Programme ⁽⁷⁾.
- (37) For reasons of legal certainty and clarity, Regulation (EC) No 1906/2006 should be repealed,
- ⁽¹⁾ Regulation No 1906/2006/EC of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) (OJ L 391, 30.12.2006, p. 1).
- ⁽²⁾ Council Decision 2006/970/Euratom of 18 December 2006 concerning the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011) (OJ L 400, 30.12.2006, p. 60).
- ⁽³⁾ 2012/93/Euratom: Council Decision of 19 December 2011 concerning the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012 to 2013) (OJ L 47, 18.2.2012, p. 25).
- ⁽⁴⁾ Regulation (Euratom) No 1314/2013 of the Council on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing Horizon 2020 - the Framework Programme for Research and Innovation (See page 948 of this Official Journal).
- ⁽⁵⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).
- ⁽⁶⁾ Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC (See page 33 of this Official Journal).
- ⁽⁷⁾ 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).

HAVE ADOPTED THIS REGULATION:

TITLE I

INTRODUCTORY PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down specific rules for participation in indirect actions undertaken under Regulation (EU) No 1291/2013, including participation in indirect actions funded by funding bodies in accordance with Article 9(2) of that Regulation.

This Regulation also lays down the rules governing the exploitation and dissemination of results.

2. Subject to the specific rules laid down in this Regulation, the relevant rules of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012 shall apply.

3. Regulation (EC) No 294/2008 or any basic act which entrusts budget implementation tasks to a funding body under Article 185 TFEU may establish rules which depart from those laid down in this Regulation. In order to take into account their specific operating needs and subject to the rules established in the relevant basic act, the Commission shall be empowered to adopt delegated acts in accordance with Article 56, with regard to funding bodies set up under Article 187 TFEU concerning:

- (a) the conditions for participation in calls for proposals issued by funding bodies established in the area of aeronautics with a view to reducing the minimum number of participants set out in Article 9(1);
- (b) the eligibility for funding as set out in Article 10, allowing funding bodies established in the area of bio-based industries and of innovative medicines to limit the eligibility for funding to specific types of participants;
- (c) the rules governing exploitation and dissemination of results, allowing funding bodies established in the area of innovative medicines to:
 - (i) extend the possibilities of transfer and licensing of results and background for affiliated entities, purchasers and any successor entity, in accordance

with the grant agreement and without the consent of other participants referred to in Article 44(1) and (2);

- (ii) allow for specific agreements for access rights to background for developing results for commercialisation or commercialising results themselves (direct exploitation) referred to in Article 48(2) to (4);

- (iii) complement the rules by introducing provisions on ownership and access to data, knowledge and information which are outside of the objectives of an action and which are not needed for implementing and exploiting the action (sideground) referred to in Article 41(2) and Articles 45 to 48;

- (iv) extend rules on exploitation to other purposes than implementing the action (research use) or developing results for commercialisation or commercialising results themselves (direct exploitation) referred to in Article 48;

- (v) set out specific criteria for allowing sub-licensing from one participant to another participant in the same action referred to in Article 46(2);

- (vi) extend, under the conditions defined in the consortium agreement referred to in Article 24(2), the access rights of participants, their affiliated entities and third parties as licensees to results or background for purposes other than implementing the action (research use) under appropriate conditions including financial terms, or developing results for commercialisation or commercialising results themselves (direct exploitation), as referred to in Articles 46 to 48;

- (vii) make access rights for direct exploitation conditional upon the agreement of the participants concerned, as referred to in Article 48;

- (viii) render optional the dissemination through scientific publication in the form of open access, as referred to in Article 43(2);

- (d) the funding of the actions, allowing funding bodies in the area of electronic components and systems to apply reimbursement rates different to those set out in Article 28(3) in cases where one or more Member States co-fund a participant or an action.

A funding body entrusted with budget implementation tasks under points (i) or (ii) of point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012, may apply rules which depart from those laid down in this Regulation, subject to the consent of the Commission, if its specific operating needs so require. The Commission shall give its consent in such cases only if those rules are in compliance with the general principles established in this Regulation.

4. This Regulation shall not apply to direct actions carried out by the Joint Research Centre (JRC).

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions apply:

- (1) 'access rights' means rights to use results or background under the terms and conditions laid down in accordance with this Regulation;
- (2) 'affiliated entity' means any legal entity that is under the direct or indirect control of a participant, or under the same direct or indirect control as the participant, or that is directly or indirectly controlling a participant. Control may take any of the forms set out in Article 8(2);
- (3) 'associated country' means a third country which is party to an international agreement with the Union, as identified in Article 7 of Regulation (EU) No 1291/2013;
- (4) 'background' means any data, know-how or information whatever its form or nature, tangible or intangible, including any rights such as intellectual property rights, which is: (i) held by participants prior to their accession to the action; (ii) needed for carrying out the action or for exploiting the results of the action; and (iii) identified by the participants in accordance with Article 45;
- (5) 'basic act' means a legal act adopted by the Union institutions in the form of a regulation, a directive or a decision within the meaning of Article 288 TFEU which provides a legal basis for the action;
- (6) 'innovation action' means an action primarily consisting of activities directly aimed at producing plans and arrangements or designs for new, altered or improved products, processes or services. For this purpose they may include prototyping, testing, demonstrating, piloting, large-scale product validation and market replication;

(7) 'coordination and support action' means an action consisting primarily of accompanying measures such as standardisation, dissemination, awareness-raising and communication, networking, coordination or support services, policy dialogues and mutual learning exercises and studies, including design studies for new infrastructure, and may also include complementary activities of networking and coordination between programmes in different countries;

(8) 'dissemination' means the public disclosure of the results by any appropriate means (other than resulting from protecting or exploiting the results), including by scientific publications in any medium;

(9) 'exploitation' means the use of results in further research activities other than those covered by the action concerned, or in developing, creating and marketing a product or process, or in creating and providing a service, or in standardisation activities;

(10) 'fair and reasonable conditions' means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged;

(11) 'funding body' means a body or authority, other than the Commission, as referred to in point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012, to which the Commission has entrusted budget implementation tasks in accordance with Article 9(2) of Regulation (EU) No 1291/2013;

(12) 'international European interest organisation' means an international organisation, the majority of whose members are Member States or associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;

(13) 'legal entity' means any natural person, or any legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations;

(14) 'non-profit legal entity' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members;

- (15) 'participant' means any legal entity carrying out an action or part of an action under Regulation (EU) No 1291/2013 having rights and obligations with regard to the Union or another funding body under this Regulation;
- (16) 'programme co-fund action' means an action funded through a grant the main purpose of which is supplementing individual calls or programmes funded by entities, other than Union funding bodies, managing research and innovation programmes. A programme co-fund action may also include complementary activities of networking and coordination between programmes in different countries;
- (17) 'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;
- (18) 'public procurement of innovative solutions' means procurement where contracting authorities act as a launch customer for innovative goods or services which are not yet available on a large-scale commercial basis, and may include conformity testing;
- (19) 'results' means any tangible or intangible output of the action, such as data, knowledge or information, that is generated in the action, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;
- (20) 'SME' means micro-, small- and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC ⁽¹⁾;
- (21) 'work programme' means the document adopted by the Commission for the implementation of the specific programme in accordance with Article 5 of Council Decision 2013/743/EU of 3 December 2013 ⁽²⁾;
- (22) 'work plan' means the document similar to the Commission work programme adopted by funding bodies entrusted with part of the implementation of Horizon 2020 in accordance with Article 9(2) of Regulation (EU) No 1291/2013.

⁽¹⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

⁽²⁾ Council Decision 2013/743/EU of 11 December 2013 establishing the Specific Programme Implementing Horizon 2020 - The Framework Programme for Research and Innovation (2014 - 2020) (See page 965 of this Official Journal).

2. For the purposes of this Regulation, an entity which does not have legal personality under the applicable national law shall be considered as being assimilated to a legal entity provided that the conditions set out in Article 131(2) of Regulation (EU, Euratom) No 966/2012 and Article 198 of Regulation (EU) No 1268/2012 are complied with.

3. For the purposes of this Regulation, grant recipients shall not be considered to be funding bodies.

Article 3

Confidentiality

Subject to the conditions established in the implementing agreements, decisions or contracts, any data, knowledge and information communicated as confidential in the framework of an action shall be kept confidential, taking due account of Union law regarding the protection of and access to classified information.

Article 4

Information to be made available

1. Without prejudice to Article 3, the Commission shall, upon request, make available to the Union institutions, bodies, offices or agencies, any Member State or associated country, any useful information in its possession concerning results generated by a participant in an action that has received Union funding, provided that both the following conditions are met:

- (a) the information concerned is relevant to public policy;
- (b) the participants have not provided sound and sufficient reasons for withholding the information concerned.

In actions under the specific objective 'Secure societies - Protecting freedom and security of Europe and its citizens', the Commission shall upon request make available to Union institutions, bodies, offices or agencies or to Member States' national authorities any useful information in its possession concerning results generated by a participant in an action that has received Union funding. The Commission shall notify the participant of such communication. Where a Member State or Union institution, body, office or agency requests the communication of information, the Commission shall also notify such communication to all Member States.

2. The provision of information pursuant to paragraph 1 shall not be deemed to transfer to the recipient any rights or obligations of the Commission or of the participants. However, the recipient shall treat any such information as confidential unless it becomes public or is made available publicly by the participants, or unless it was communicated to the Commission without restrictions concerning confidentiality. The Commission rules on security shall apply regarding classified information.

*Article 5***Guidance and information for potential participants**

In accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, the Commission or the relevant funding body shall ensure that sufficient guidance and information is made available to all potential participants at the time of publication of the call for proposals, in particular the applicable model grant agreement.

TITLE II

RULES FOR PARTICIPATION

CHAPTER I

General provisions*Article 6***Forms of funding**

In accordance with Article 10 of Regulation (EU) No 1291/2013, funding may take one or several of the forms provided for by Regulation (EU, Euratom) No 966/2012, in particular grants, prizes, procurement or financial instruments.

*Article 7***Legal entities that may participate in actions**

1. Any legal entity, regardless of its place of establishment, or international organisation may participate in an action provided that the conditions laid down in this Regulation have been met, together with any conditions laid down in the relevant work programme or work plan.

2. The relevant work programme may restrict the participation in Horizon 2020 or parts thereof of legal entities established in third countries where conditions for the participation of legal entities from Member States, or of their affiliated entities established in a third country, in the third country's research and innovation programmes are considered to be prejudicial to the Union's interests.

3. The relevant work programme or work plan may exclude entities unable to provide satisfactory security guarantees, including as regards personnel security clearance if justified by security reasons.

4. The JRC may participate in actions with the same rights and obligations as a legal entity established in a Member State.

*Article 8***Independence**

1. Two legal entities shall be regarded as independent of each other where neither is under the direct or indirect control of the other or under the same direct or indirect control as the other.

2. For the purposes of paragraph 1, control may, in particular, take either of the following forms:

- (a) the direct or indirect holding of more than 50 % of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;
- (b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

3. For the purposes of paragraph 1, the following relationships between legal entities shall not in themselves be deemed to constitute controlling relationships:

- (a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50 % of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;
- (b) the legal entities concerned are owned or supervised by the same public body.

CHAPTER II

Grants

Section I

Award procedure*Article 9***Conditions for participation**

1. The following minimum conditions shall apply:

- (a) at least three legal entities shall participate in an action;
- (b) three legal entities shall each be established in a different Member State or associated country; and
- (c) the three legal entities referred to in point (b) shall be independent of each other within the meaning of Article 8.

2. For the purposes of paragraph 1, where one of the participants is the JRC, or an international European interest organisation or an entity created under Union law, it shall be deemed to be established in a Member State or associated country other than any Member State or associated country in which another participant in the same action is established.

3. By way of derogation from paragraph 1, the minimum condition shall be the participation of one legal entity established in a Member State or associated country, in the case of:

- (a) European Research Council (ERC) frontier research actions;
- (b) the SME instrument, where the action has a clear European added value;
- (c) programme co-fund actions; and
- (d) justified cases provided for in the work programme or work plan.

4. By way of derogation from paragraph 1, in the case of coordination and support actions and training and mobility actions, the minimum condition shall be the participation of one legal entity.

5. Where appropriate and duly justified, work programmes or work plans may provide for additional conditions according to specific policy requirements or to the nature and objectives of the action, including inter alia conditions regarding the number of participants, the type of participant and the place of establishment.

Article 10

Eligibility for funding

1. The following participants are eligible for funding from the Union:

- (a) any legal entity established in a Member State or associated country, or created under Union law;
- (b) any international European interest organisation;
- (c) any legal entity established in a third country identified in the work programme.

2. In the case of a participating international organisation or in the case of a participating legal entity established in a third country, neither of which are eligible for funding according to paragraph 1, funding from the Union may be granted provided that at least one of the following conditions is fulfilled:

- (a) the participation is deemed essential for carrying out the action by the Commission or the relevant funding body;
- (b) such funding is provided for under a bilateral scientific and technological agreement or any other arrangement between

the Union and the international organisation or, for entities established in third countries, the country in which the legal entity is established.

Article 11

Calls for proposals

1. Calls for proposals shall be issued in accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/12, taking account in particular of the need for transparency and non-discrimination, and for flexibility appropriate to the diverse nature of the research and innovation sectors.

2. As an exception and without prejudice to the other cases provided for in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, calls for proposals shall not be issued for coordination and support actions and programme co-fund actions to be carried out by legal entities identified in the work programmes or work plans provided that the action does not fall within the scope of a call for proposals.

3. In accordance with the relevant rules of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, sufficient time periods for preparing proposals shall be provided, with reasonable notice of upcoming calls for proposals through the publication of a work programme and a reasonable time period between the publication of a call for proposals and the deadline for submitting a proposal.

Article 12

Joint calls with third countries or with international organisations

1. Joint calls for proposals with third countries or their scientific and technological organisations and agencies or with international organisations may be issued to jointly fund actions in priority areas of common interest and expected mutual benefit where there is a clear added value for the Union. Proposals shall be evaluated and selected through joint evaluation and selection procedures to be agreed upon. Such evaluation and selection procedures shall ensure compliance with the principles set out in Title VI of Regulation (EU, Euratom) No 966/2012 and involve a balanced group of independent experts appointed by each party.

2. Legal entities receiving funding from the Union shall conclude a grant agreement with the Union or the relevant funding body. That grant agreement shall include a description of the work to be done by those participants and by the participating legal entities from the third countries involved.

3. Legal entities receiving funding from the Union shall conclude a coordination agreement with the participating legal entities receiving funding from the relevant third countries or international organisations.

Article 13

Proposals

1. Proposals shall include a draft plan for the exploitation and dissemination of the results, where provided for in the work programme or work plan.
2. Any proposal for research on human embryonic stem cells shall include, as appropriate, details of licensing and control measures that will be taken by the competent authorities of the Member States concerned as well as details of the ethical approvals that will be provided. As regards the derivation of human embryonic stem cells, institutions, organisations and researchers shall be subject to strict licensing and control in accordance with the legal framework of the Member States concerned.
3. A proposal which contravenes ethical principles or any applicable legislation, or which does not fulfil the conditions set out in Decision No 2013/743/EU, in the work programme, in the work plan or in the call for proposals may be excluded from the evaluation, selection and award procedures at any time.
4. Where relevant and specified in the work programme or the work plan, proposals shall explain how and to what extent gender analysis is relevant to the content of the intended project.

Article 14

Ethics review

1. The Commission shall systematically carry out ethics reviews for proposals raising ethical issues. That review shall verify the respect of ethical principles and legislation and, in the case of research carried out outside the Union, that the same research would have been allowed in a Member State.
2. The Commission shall make the process of the ethics review as transparent as possible and ensure that it is carried out in a timely manner avoiding, where possible, the resubmission of documents.

Article 15

Selection and award criteria

1. The proposals submitted shall be evaluated on the basis of the following award criteria:
 - (a) excellence;
 - (b) impact;
 - (c) quality and efficiency of the implementation.
2. Only the criterion referred to in point (a) of paragraph 1 shall apply to proposals for ERC frontier research actions.

3. The criterion referred to in point (b) of paragraph 1 may be given a higher weighting for proposals for innovation actions.

4. The work programme or work plan shall lay down further details of the application of the award criteria laid down in paragraph 1, and specify weightings and thresholds.

5. The Commission shall take into account the possibility of a two-stage submission procedure provided for in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, where appropriate and consistent with the objectives of the call for proposals.

6. Proposals shall be ranked according to the evaluation results. The selection shall be made on the basis of that ranking.

7. The evaluation shall be carried out by independent experts.

8. In the case of a legal entity referred to in Article 11(2) or in other duly justified exceptional circumstances, the evaluation may be carried out in a manner derogating from paragraph 7. In each case of such evaluation the Commission shall provide the Member States with detailed information on the evaluation procedure used and its outcome.

9. In cases where the requested funding from the Union for the action is equal or superior to EUR 500 000, the Commission or the relevant funding body shall, by means compatible with national law, verify in advance the financial capacity of only the coordinators. Furthermore, whenever there are grounds to doubt the financial capacity of the coordinator or other participants on the basis of available information, the Commission or the relevant funding body shall verify their financial capacity.

10. The financial capacity shall not be verified either in respect of legal entities whose viability is guaranteed by a Member State or an associated country or in respect of higher and secondary education establishments.

11. Financial capacity may be guaranteed by any other legal entity, whose financial capacity shall in turn be verified in accordance with paragraph 9.

Article 16

Evaluation review procedure

1. The Commission or the relevant funding body shall provide a transparent evaluation review procedure for applicants which consider that the evaluation of their proposal has not been carried out in accordance with the procedures set out in this Regulation, the relevant work programme, work plan or the call for proposals.

2. A request for review shall relate to a specific proposal, and shall be submitted by the coordinator of the proposal within 30 days of the date on which the Commission or the relevant funding body informs the coordinator of the evaluation results.

3. The Commission or the relevant funding body shall be responsible for the examination of the request referred to in paragraph 2. The examination shall cover only the procedural aspects of the evaluation, and not the merits of the proposal.

4. An evaluation review committee composed of Commission staff or of staff of the relevant funding body shall provide an opinion on the procedural aspects of the evaluation process. It shall be chaired by an official of the Commission or of the relevant funding body, from a department other than that responsible for the call for proposals. The committee may recommend one of the following:

(a) re-evaluation of the proposal primarily by evaluators not involved in the previous evaluation;

(b) confirmation of the initial evaluation.

5. On the basis of the recommendation referred to in paragraph 4, a decision shall be taken by the Commission or the relevant funding body and notified to the coordinator of the proposal. The Commission or the relevant funding body shall take such decision without undue delay.

6. The review procedure shall not delay the selection process of proposals which are not the subject of requests for review.

7. The review procedure shall not preclude any other actions the participant may take in accordance with Union law.

Article 17

Enquiries and complaints

1. The Commission shall ensure the existence of a procedure for participants to make enquiries or complaints about their involvement in Horizon 2020.

2. The Commission shall ensure that information on how to register concerns, enquiries or complaints is made available to all participants and is published on-line.

Article 18

Grant agreement

1. The Commission shall, in close cooperation with the Member States, draw up model grant agreements between the Commission or the relevant funding body and the participants

in accordance with this Regulation. If a significant modification of a model grant agreement is required, the Commission shall, in close cooperation with the Member States, revise it as appropriate.

2. The Commission or the relevant funding body shall enter into a grant agreement with the participants. The removal or substitution of an entity before signature of the grant agreement shall be duly justified.

3. The grant agreement shall establish the rights and obligations of the participants and of either the Commission or the relevant funding body in compliance with this Regulation. It shall also establish the rights and obligations of legal entities which become participants during the implementation of the action, as well as the role and tasks of a consortium coordinator.

4. On the basis of a requirement in a work programme or work plan, the grant agreement may establish rights and obligations of the participants with regard to access rights, exploitation and dissemination, in addition to those laid down in this Regulation.

5. The grant agreement shall, where appropriate and to the extent possible, reflect the general principles laid down in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, principles of research integrity, the Commission Recommendation on the management of intellectual property in knowledge transfer activities, the Code of Practice for universities and other public research institutions as well as the gender equality principle laid down in Article 16 of Regulation (EU) No 1291/2013.

6. The grant agreement shall, where appropriate, contain provisions ensuring the respect of ethical principles, including the establishment of an independent ethics board and the right of the Commission to carry out an ethics audit by independent experts.

7. In duly justified cases, specific grants for actions may form part of a framework partnership in accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.

Article 19

Grant decisions

Where appropriate, and in duly justified cases, the Commission, in accordance with Article 121(1) of Regulation (EU, Euratom) No 966/2012, or the relevant funding body, may notify grant decisions instead of entering into grant agreements. The provisions of this Regulation referring to grant agreements shall apply *mutatis mutandis*.

*Article 20***Time to grant**

1. In accordance with Article 128(2) of Regulation (EU, Euratom) No 966/2012, calls for proposals shall specify the planned date by which all applicants shall be informed of the outcome of the evaluation of their application and the indicative date for the signature of grant agreements or the notification of grant decisions.

2. The dates referred to in paragraph 1 shall be based on the following periods:

- (a) for informing all applicants of the outcome of the scientific evaluation of their application, a maximum period of five months from the final date for submission of complete proposals;
- (b) for signing grant agreements with applicants or notifying grant decisions to them, a maximum period of three months from the date of informing applicants they have been successful.

3. The periods referred to in paragraph 2 may be exceeded for actions of the ERC and in exceptional, duly justified cases, in particular where actions are complex, where there is a large number of proposals or where requested by the applicants.

4. Participants shall be given reasonable time to submit the information and documentation required for the signature of the grant agreement. The Commission shall make decisions and requests for information as promptly as possible. Where possible, resubmission of documents shall be avoided.

*Article 21***Time to Pay**

Participants shall be paid in a timely manner in accordance with Regulation (EU, Euratom) No 966/2012. When a payment has been made to the coordinator, the Commission or the relevant funding body shall notify the participants thereof.

*Article 22***Secure electronic system**

All exchanges with participants, including the conclusion of grant agreements, the notification of grant decisions and any amendments thereto, may be made through an electronic exchange system set up by the Commission or by the relevant funding body, as stipulated in Article 179 of Regulation (EU) No 1268/2012.

*Section II***Implementation***Article 23***Implementation of actions**

1. Participants shall implement actions in compliance with all the conditions and obligations set out in this Regulation, Regulation (EU, Euratom) No 966/2012, Regulation (EU) No 1268/2012, Decision 2013/743/EU, the work programme or work plan, the call for proposals and the grant agreement.

2. Participants shall make no commitments which are incompatible with this Regulation or the grant agreement. Where a participant fails to comply with its obligations regarding the technical implementation of the action, the other participants shall comply with the obligations without any additional Union funding unless the Commission or the relevant funding body expressly relieves them of that obligation. In the event of a participant defaulting, the Commission may, in accordance with point (a) of Article 39(3) transfer the amount due from the Participant Guarantee Fund referred to in Article 38 to the coordinator of the action. The financial responsibility of each participant shall be limited to its own debt subject to the provisions relating to the Participant Guarantee Fund. Participants shall ensure that the Commission or the relevant funding body is informed in due time of any event which might significantly affect the implementation of the action or the interests of the Union.

3. Participants shall implement the action and shall take all necessary and reasonable measures to that end. They shall have the appropriate resources as and when needed for carrying out the action. Where it is necessary for the implementation of the action, they may call upon third parties, including subcontractors, to carry out work under the action or may use resources made available by third parties by means of contributions in kind, according to the conditions set out in the grant agreement. Participants shall retain responsibility towards the Commission or the relevant funding body and towards the other participants for the work carried out.

4. The award of subcontracts for carrying out certain elements of the action shall be limited to the cases provided for in the grant agreement and to duly justified cases that could not be clearly foreseen at the time of entry into force of the grant agreement.

5. Third parties other than subcontractors may carry out work under the action under the conditions laid down in the grant agreement. The third party and the work to be carried out by it shall be identified in the grant agreement.

Costs incurred by those third parties may be deemed eligible if the third party meets all the following conditions:

- (a) it would be eligible for funding if it were a participant;

(b) it is an affiliated entity or has a legal link to a participant implying a collaboration not limited to the action;

(c) it is identified in the grant agreement;

(d) it abides by the rules applicable to the participant under the grant agreement with regard to eligibility of costs and control of expenditure;

(e) it accepts joint and several liability with the participant for the Union contribution corresponding to the amount declared by the third party, if required by the Commission or the relevant funding body.

6. Third parties may also make available resources to a participant by means of contributions in kind to the action. Costs incurred by third parties in relation to such contributions which are made free of charge are eligible for funding provided they meet the conditions established in the grant agreement.

7. The action may involve financial support to third parties under the conditions established in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012. The amounts referred to in point (c) of Article 137(1) of Regulation (EU, Euratom) No 966/2012 may be exceeded where it is necessary to achieve the objectives of an action.

8. The action carried out by participants which are contracting authorities within the meaning of Directive 2004/17/EC of the European Parliament and of the Council⁽¹⁾, Directive 2004/18/EC of the European Parliament and of the Council⁽²⁾ and Directive 2009/81/EC of the European Parliament and of the Council⁽³⁾ may involve or have as their primary aim the pre-commercial procurement and procurement of innovative solutions, where provided for in a work programme or a work plan and required for its implementation. In such cases, the rules set out in Article 51(2), (4) and (5) of this Regulation shall apply to the procurement procedures carried out by the participants.

9. Participants shall comply with national legislation, regulations and ethical rules in the countries where the action will

⁽¹⁾ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.4.2004, p. 1).

⁽²⁾ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

⁽³⁾ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

be carried out. Where appropriate, participants shall seek the approval of the relevant national or local ethics committees prior to the start of the action.

10. Work using animals shall be carried out in accordance with Article 13 TFEU and shall comply with the requirement to replace, reduce and refine the use of animals for scientific purposes in accordance with Union law and in particular with Directive 2010/63/EU of the European Parliament and of the Council⁽⁴⁾.

Article 24

Consortium

1. The members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement, or in the event of non-compliance with its obligations under the grant agreement.

2. The members of a consortium participating in an action shall conclude an internal agreement ("the consortium agreement") establishing their rights and obligations with respect to the implementation of the action in compliance with the grant agreement, except in duly justified cases provided for in the work programme or work plan or call for proposals. The Commission shall publish guidelines on the main issues that may be addressed by participants in the consortium agreement.

3. The consortium agreement may stipulate *inter alia* the following:

(a) the internal organisation of the consortium;

(b) the distribution of the Union funding;

(c) rules on dissemination, use and access rights, additional to those in Title III, Chapter 1 of this Regulation, and to the provisions in the grant agreement;

(d) arrangements for settling internal disputes;

(e) liability, indemnification and confidentiality arrangements between the participants.

⁽⁴⁾ Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes (OJ L 276, 20.10.2010, p. 33).

The members of the consortium may make any arrangements in the consortium they deem fit to the extent that those arrangements are not in conflict with the grant agreement or this Regulation.

4. The consortium may propose to add or remove a participant or change the coordinator in accordance with the relevant provisions of the grant agreement, provided that the change is in conformity with the conditions for participation, does not adversely affect the implementation of the action and is not contrary to the principle of equal treatment.

Section III

Forms of grants and funding rules

Article 25

Forms of grants

Grants may take any of the forms provided for in Article 123 of Regulation (EU, Euratom) No 966/2012, taking into account the objectives of the action.

Article 26

Eligibility of costs

1. Conditions for eligibility of costs are defined in Article 126 of Regulation (EU, Euratom) No 966/2012. Costs incurred by third parties under the action may be eligible according to the provisions of this Regulation and of the grant agreement.

2. Ineligible costs are those not complying with the conditions of paragraph 1, including, in particular, provisions for possible future losses or charges, exchange losses, costs related to return on capital, costs reimbursed in respect of another Union action or programme, debt and debt service charges and excessive or reckless expenditure.

Article 27

Direct eligible personnel costs

1. Without prejudice to the conditions laid down in Article 26, direct eligible personnel costs shall be limited to salaries plus social security charges and other costs included in the remuneration of personnel assigned to the action, arising from national law or from the employment contract.

2. Without prejudice to the conditions laid down in Article 26, additional remuneration to personnel of participants that are non-profit legal entities assigned to the action, including payments on the basis of supplementary contracts regardless of their nature, may also be considered as direct eligible personnel costs, up to the amount set out in paragraph 3, if they fulfil the following additional conditions:

(a) it is part of the usual remuneration practices of the participant and is paid in a consistent manner whenever the same kind of work or expertise is required;

(b) the criteria used to calculate the supplementary payments are objective and of general application by the participant, independent of the source of funding used.

3. Additional remuneration may be eligible up to EUR 8 000 per year and per person. In relation to a person not working exclusively for the action, a limit per hour shall apply. The limit per hour shall be calculated by dividing EUR 8 000 by the number of annual productive hours calculated in accordance with Article 31.

Article 28

Funding of the action

1. The funding of an action shall not exceed the total eligible costs minus the receipts of the action.

2. The following shall be considered as receipts of the action:

(a) resources made available by third parties to the participants by means of financial transfers or contributions in kind free of charge, the value of which has been declared as eligible costs by the participant, provided that they have been contributed by the third party specifically to be used in the action;

(b) income generated by the action, except income generated by the exploitation of the results of the action;

(c) income generated from the sale of assets purchased under the grant agreement up to the value of the cost initially charged to the action by the participant.

3. A single reimbursement rate of the eligible costs shall be applied per action for all activities funded therein. The maximum rate shall be fixed in the work programme or work plan.

4. The Horizon 2020 grant may reach a maximum of 100 % of the total eligible costs, without prejudice to the co-financing principle.

5. The Horizon 2020 grant shall be limited to a maximum of 70 % of the total eligible costs for innovation actions and programme co-fund actions.

By way of derogation from paragraph 3, the Horizon 2020 grant may, for innovation actions, reach a maximum of 100 % of the total eligible costs for non-profit legal entities, without prejudice to the co-financing principle.

6. The reimbursement rates determined in this Article shall also apply in the case of actions where flat rate, unit or lump-sum financing is fixed for the whole or part of the action.

Article 29

Indirect costs

1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiary, as well as financial support to third parties.

2. By way of derogation from paragraph 1, indirect costs may be declared in the form of a lump sum or unit costs when provided for in the work programme or work plan.

Article 30

Evaluation of the funding levels

The interim evaluation of Horizon 2020 shall include an evaluation of the impact of the various features introduced by the new funding levels laid down in Articles 27, 28 and 29 of this Regulation, with the aim of evaluating whether the new approach has led to undesired situations adversely affecting the attractiveness of Horizon 2020.

Article 31

Annual productive hours

1. Eligible personnel costs shall cover only the actual hours worked by the persons directly carrying out work under the action. Evidence regarding the actual hours worked shall be provided by the participant, usually through a time recording system.

2. For persons working exclusively for the action, no time recording is required. In such cases, the participant shall sign a declaration confirming that the person concerned has worked exclusively for the action.

3. The grant agreement shall contain:

- (a) the minimum requirements for the time recording system;
- (b) the option to choose between a fixed number of annual productive hours and the method for establishing the

number of annual productive hours to be used for the calculation of the hourly personnel rates, taking account of the participant's usual accounting practices.

Article 32

Owners of SMEs and natural persons without a salary

The owners of SMEs who do not receive a salary, and other natural persons who do not receive a salary, may charge personnel costs on the basis of a unit cost.

Article 33

Unit costs

1. In accordance with Article 124 of Regulation (EU, Euratom) No 966/2012, the Commission may establish methods to determine unit costs based on:

(a) statistical data or similar objective means;

(b) auditable historical data of the participant.

2. Direct eligible personnel costs may be financed on the basis of unit costs determined according to the participant's usual cost accounting practices, provided that they comply with the following cumulative criteria:

(a) they are calculated on the basis of the total actual personnel costs recorded in the participant's general accounts which may be adjusted by the participant on the basis of budgeted or estimated elements according to the conditions defined by the Commission;

(b) they comply with Articles 26 and 27;

(c) they ensure compliance with the non-profit requirement and the avoidance of double funding of costs;

(d) they are calculated with due regard to Article 31.

Article 34

Certificate on the financial statements

The certificate on the financial statements shall cover the total amount of the grant claimed by a participant under the form of reimbursement of actual costs and under the form of unit costs referred to in Article 33(2), excluding the amounts declared on the basis of lump sums, flat rates and unit costs other than those determined according to the participant's usual cost accounting practices. The certificate shall be submitted only when that amount is equal to or greater than EUR 325 000 at the time of claiming the payment of the balance of the grant.

*Article 35***Certificate on the methodology**

1. Participants that calculate and claim direct personnel costs on the basis of unit costs in accordance with Article 33(2) may submit to the Commission a certificate on the methodology. That methodology shall comply with the conditions set out in Article 33(2) and meet the requirements of the grant agreement.
2. Where the Commission accepts a certificate on the methodology, it shall be valid for all actions financed under Regulation (EU) No 1291/2013 and the participant shall calculate and claim costs on the basis of it. Once the Commission has accepted a certificate on the methodology, it shall not attribute any systemic or recurrent error to the accepted methodology.

*Article 36***Certifying auditors**

1. The certificates on the financial statements and on the methodology referred to in Articles 34 and 35 shall be established by an independent auditor qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC of the European Parliament and of the Council ⁽¹⁾ or similar national regulations, or by a competent and independent public officer in whom the relevant national authorities have vested the legal capacity to audit the participant and who has not been involved in the preparation of the financial statements.
2. Upon request by the Commission, the Court of Auditors or the European Anti-fraud Office (OLAF), the auditor who delivers the certificate on the financial statements and on the methodology shall grant access to the supporting documents and audit working papers on the basis of which a certificate on the financial statements or on the methodology was issued.

*Article 37***Cumulative funding**

An action for which a grant from the Union budget has been awarded may also give rise to the award of a grant on the basis of Regulation (EU) No 1291/2013, provided that the grants do not cover the same cost items.

Section IV**Guarantees***Article 38***Participant Guarantee Fund**

1. A participant guarantee fund (the "Fund") is hereby established and shall cover the risk associated with non-recovery of

sums due to the Union under actions financed through grants by the Commission under Decision No 1982/2006/EC and by the Commission or Union funding bodies under "Horizon 2020" according to the rules set out in this Regulation. The Fund shall replace and succeed the Participant Guarantee Fund set up under Regulation (EC) No 1906/2006.

2. The Fund shall be operated in accordance with Article 39. Any financial interest generated by the Fund shall be added to the Fund and shall serve exclusively for the purposes set out in Article 39(3).
3. Where interest is insufficient to cover the operations described in Article 39(3), the Fund shall not intervene and the Commission or the relevant Union funding body shall recover directly from participants or third parties any amount owed.
4. The Fund shall be considered a sufficient guarantee under Regulation (EU, Euratom) No 966/2012. No additional guarantee or security may be accepted from participants or imposed upon them except in the case described in paragraph 3 of this Article.
5. Participants in actions under Horizon 2020 whose risk is covered by the Fund shall make a contribution of 5 % of the Union funding for the action. At the end of the action the amount contributed to the Fund shall be returned to the participants, via the coordinator.
6. The rate of the participants' contribution to the Fund set out in paragraph 5 may be reduced on the basis of the interim evaluation of Horizon 2020.

*Article 39***Operation of the Fund**

1. The Fund shall be managed by the Union, represented by the Commission acting as executive agent on behalf of the participants, in accordance with the conditions established by the grant agreement.

The Commission may manage the Fund directly or entrust the financial management of the Fund either to the European Investment Bank or to an appropriate financial institution ("the depository bank"). The depository bank shall manage the Fund pursuant to the instructions of the Commission.

2. The participants' contribution to the Fund may be offset from the initial pre-financing and be paid to the Fund on behalf of the participants.
3. Where amounts are due to the Union by a participant, the Commission may, without prejudice to penalties which may be imposed on the defaulting participant, take either of the following actions:

⁽¹⁾ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

(a) transfer, or order the depository bank to transfer, directly the amount due from the Fund to the coordinator of the action. That transfer shall be made after the termination or withdrawal of the participation of the defaulting participant if the action is still ongoing and if the remaining participants agree to implement it according to the same objectives. Amounts transferred from the Fund shall be regarded as Union funding;

(b) recover effectively that amount from the Fund.

The Commission shall issue a recovery order against that participant or third party to the benefit of the Fund. The Commission may adopt to that end a recovery decision in accordance with Regulation (EU, Euratom) No 966/2012.

4. The amounts recovered shall constitute revenue assigned to the Fund within the meaning of Article 21(4) of Regulation (EU, Euratom) No 966/2012. Once the implementation of all grants whose risk is covered by the Fund is complete, any sums outstanding shall be recovered by the Commission and entered into the budget of the Union, subject to decisions of the legislative authority.

CHAPTER III

Experts

Article 40

Appointment of independent experts

1. The Commission and, where appropriate, funding bodies may appoint independent experts to evaluate proposals in accordance with Article 15 or to advise on or assist with:

- (a) the evaluation of proposals;
- (b) the monitoring of the implementation of actions carried out under Regulation (EU) No 1291/2013 as well as of previous Research and/or Innovation Programmes;
- (c) the implementation of Union research and innovation policy or programmes including Horizon 2020, as well as the achievement and functioning of the European Research Area;
- (d) the evaluation of Research and Innovation Programmes;
- (e) the design of the Union research and innovation policy, including the preparation of future programmes.

2. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the

tasks assigned to them. In cases where independent experts have to deal with classified information, the appropriate security clearance shall be required before appointment.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to relevant organisations such as research agencies, research institutions, universities, standardisation organisations, civil society organisations or enterprises with a view to establishing a database of candidates.

The Commission or the relevant funding body may, if deemed appropriate and in duly justified cases, select in a transparent manner any individual expert with the appropriate skills not included in the database.

When appointing independent experts, the Commission or the relevant funding body shall take appropriate measures to seek a balanced composition within the expert groups and evaluation panels in terms of various skills, experience, knowledge, geographical diversity and gender, and taking into account the situation in the field of the action. Where appropriate, private-public sector balance shall also be sought.

The Commission or the relevant funding body may call upon the advice of advisory bodies for the appointment of independent experts. In the case of ERC frontier research actions, the Commission shall appoint experts on the basis of a proposal from the Scientific Council of the ERC.

3. The Commission or the relevant funding body shall ensure that an expert faced with a conflict of interest in relation to a matter on which the expert is required to provide an opinion does not evaluate, advise or assist on the specific matter in question.

4. All exchanges with independent experts, including the conclusion of contracts for their appointment and any amendment thereto, may be done through electronic exchange systems set up by the Commission or by the relevant funding body as stipulated in Article 287(4) of Regulation (EU) No. 1268/2012.

5. The names of experts appointed in a personal capacity, who have assisted the Commission or the funding bodies in implementation of Regulation (EU) No 1291/2013 and Decision 2013/743/EU shall be published, together with their area of expertise, at least once a year on the internet site of the Commission or the relevant funding body. Such information shall be collected, processed and published in accordance with Regulation (EC) No 45/2001.

TITLE III

**RULES GOVERNING THE EXPLOITATION AND
DISSEMINATION OF RESULTS**

CHAPTER I

Grants

Section I

Results

Article 41

Ownership of results

1. Results shall be owned by the participant generating them.
2. Where participants in an action have jointly generated results, and where their respective contribution to the joint results cannot be ascertained, or where it is not possible to separate such joint results for the purpose of applying for, obtaining or maintaining the relevant intellectual property rights protection, they shall have joint ownership of those results. The joint owners shall establish an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement. The joint owners may agree not to continue with joint ownership but decide on an alternative regime, *inter alia* by transferring their ownership shares to a single owner with access rights for the other participants, once the results have been generated.

Unless otherwise agreed in the joint ownership agreement, each joint owner shall be entitled to grant non-exclusive licences to third parties to exploit the jointly owned results, without any right to sub-license, subject to the following conditions:

- (a) prior notice shall be given to the other joint owners;
 - (b) fair and reasonable compensation shall be provided to the other joint owners.
3. If employees or any party working for a participant are entitled to claim rights to the results generated, the participant concerned shall ensure that it is possible for those rights to be exercised in a manner compatible with its obligations under the grant agreement.

Article 42

Protection of results

1. Where results are capable of or may reasonably be expected to be capable of commercial or industrial exploitation, the participant owning those results shall examine the possibility of protecting them. The participant shall, if possible, reasonable and justified given the circumstances, adequately protect them for an appropriate period of time and with an

appropriate territorial coverage, having due regard to its legitimate interests, and the legitimate interests, particularly the commercial interests, of the other participants in the action.

2. Where a participant that has received Union funding intends not to protect results generated by it for reasons other than impossibility under Union or national law or the lack of potential for commercial or industrial exploitation, and unless the participant intends to transfer them to another legal entity established in a Member State or associated country in view of their protection, it shall inform the Commission or the relevant funding body before any dissemination relating to those results takes place. The Commission, on behalf of the Union, or the relevant funding body may, with the consent of the participant concerned, assume ownership of those results and take the necessary steps for their adequate protection.

The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. No dissemination relating to those results may take place until the Commission or the relevant funding body has taken a decision not to assume ownership of the results or has decided that it will assume ownership and has taken the necessary steps to ensure their protection. The Commission or the relevant funding body shall make such decision without undue delay. The grant agreement shall lay down time-limits in this respect.

3. Where a participant that has received Union funding intends to abandon the protection of results or intends not to seek the extension of such protection for reasons other than the lack of potential for commercial or industrial exploitation within a period that shall not exceed five years following the payment of the balance, it shall inform the Commission or the relevant funding body, which may continue or extend protection by assuming ownership thereof. The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. The grant agreement shall lay down time-limits in this respect.

Article 43

Exploitation and dissemination of results

1. Each participant that has received Union funding shall use its best efforts to exploit the results it owns, or to have them exploited by another legal entity, in particular through the transfer and licensing of results in accordance with Article 44.

Any additional exploitation obligations shall be laid down in the grant agreement. In the case of research with the potential to address major societal challenges, additional exploitation obligations may include licensing on non-exclusive terms. Any such additional obligations shall be indicated in the work programme or work plan.

2. Subject to any restrictions due to the protection of intellectual property, security rules or legitimate interests, each participant shall through appropriate means disseminate the results it owns as soon as possible. The grant agreement may lay down time-limits in this respect.

Any additional dissemination obligations shall be laid down in the grant agreement and indicated in the work programme or work plan.

With regard to the dissemination of results through scientific publications, open access shall apply under the terms and conditions laid down in the grant agreement. Costs relating to open access to scientific publications that result from research funded under Horizon 2020, incurred within the duration of an action, shall be eligible for reimbursement under the conditions of the grant agreement. With due regard to Article 18 of Regulation (EU) No 1291/2013, the grant agreement shall not stipulate conditions regarding open access to publications which would result in additional publishing costs after the completion of an action.

With regard to the dissemination of research data, the grant agreement may, in the context of the open access to and the preservation of research data, lay down terms and conditions under which open access to such results shall be provided, in particular in ERC frontier research and FET (Future and Emerging Technologies) research or in other appropriate areas, and taking into consideration the legitimate interests of the participants and any constraints pertaining to data protection rules, security rules or intellectual property rights. In such cases, the work programme or work plan shall indicate if the dissemination of research data through open access is required.

Prior notice of any dissemination activity shall be given to the other participants. Following notification, a participant may object if it demonstrates that its legitimate interests in relation to its results or background would suffer significant harm by the intended dissemination. In such cases, the dissemination may not take place unless appropriate steps are taken to safeguard those legitimate interests. The grant agreement shall lay down time-limits in this respect.

3. For the purposes of monitoring and dissemination by the Commission or the relevant funding body, participants shall provide any information on their exploitation and dissemination related activities, and provide any documents necessary in accordance with the conditions laid down in the grant agreement. Subject to the legitimate interests of the participants which have provided the information, such information shall be made publicly available. The grant agreement shall, inter alia, lay down time-limits with respect to such reporting obligations.

4. All patent applications, standards, publications or any other dissemination, including those in electronic form, relating to results shall, if possible, include a statement, which

may include visual means, that the action received financial support from the Union. The terms of that statement shall be established in the grant agreement.

Article 44

Transfer and licensing of results

1. Where a participant transfers ownership of results, it shall pass on its obligations under the grant agreement regarding those results to the transferee, including the obligation to pass them on in any subsequent transfer.

Without prejudice to confidentiality obligations arising from laws or regulations in the case of mergers and acquisitions, where other participants still enjoy access rights or may still request the granting of access rights to the results to be transferred, a participant which intends to transfer the results shall give prior notice to the other participants, together with sufficient information concerning the intended new owner of the results, to permit the other participants to analyse the effect of the intended transfer on the possible exercise of their access rights.

Following notification, a participant may object to the transfer of ownership if it demonstrates that the intended transfer would adversely affect the exercise of its access rights. In such a case, the transfer may not take place until agreement has been reached between the participants concerned. The grant agreement shall lay down time-limits in this respect.

The other participants may by prior written agreement waive their right to prior notice and to object to transfers of ownership from one participant to a specifically identified third party.

2. Provided that access rights to the results can be exercised, and that any additional exploitation obligations are complied with by the participant which owns the results, the latter may grant licences or otherwise grant the right to exploit them to any legal entity, including on an exclusive basis. Exclusive licences for results may be granted subject to consent by all the other participants concerned that they will waive their access rights thereto.

3. With regard to results which are generated by participants that have received Union funding, the grant agreement may provide that the Commission or the relevant funding body may object to transfers of ownership or to grants of an exclusive licence to third parties established in a third country not associated with Horizon 2020, if it considers that the grant or transfer is not in accordance with the interests of developing the competitiveness of the Union economy, or is inconsistent with ethical principles or security considerations.

In such cases, the transfer of ownership or grant of exclusive licence shall not take place unless the Commission or the relevant funding body is satisfied that appropriate safeguards will be put in place.

Where appropriate, the grant agreement shall provide that the Commission or the relevant funding body is to be notified in advance of any such transfer of ownership or grant of an exclusive licence. The grant agreement shall lay down time-limits in this respect.

Section II

Access rights to background and results

Article 45

Background

Participants shall identify the background for their action in any manner in a written agreement.

Article 46

Access rights principles

1. Any request to exercise access rights or any waiving of access rights shall be made in writing.
2. Unless otherwise agreed by the owner of the results or background to which access is requested, access rights shall not include the right to sub-license.
3. Participants in the same action shall inform each other before their accession to the grant agreement of any legal restriction or limit to granting access to their background. Any agreement concluded thereafter by a participant regarding background shall ensure that any access rights may be exercised.
4. The termination of the participation in an action shall not affect the obligation of such a participant to grant access under the terms and conditions established in the grant agreement.
5. The consortium agreement may stipulate that where a participant defaults on its obligations and such default is not remedied, such a defaulting participant shall no longer enjoy access rights.

Article 47

Access rights for implementation

1. A participant shall enjoy access rights to the results of another participant in the same action if those results are needed by the former to carry out its work under the action.

Such access shall be granted on a royalty-free basis.

2. A participant shall enjoy access rights to background of another participant in the same action if this background is

needed by the former to carry out its work under the action, and subject to any restrictions or limits pursuant to Article 46(3).

Such access shall be granted on a royalty-free basis, unless otherwise agreed by the participants before their accession to the grant agreement.

Article 48

Access rights for exploitation

1. A participant shall enjoy access rights to the results of another participant in the same action if those results are needed by the former to exploit its own results.

Subject to agreement, such access shall be granted under fair and reasonable conditions.

2. A participant shall enjoy access rights to background of another participant in the same action if this background is needed by the former to exploit its own results, and subject to any restrictions or limits pursuant to Article 46(3).

Subject to agreement, such access shall be granted under fair and reasonable conditions.

3. An affiliated entity established in a Member State or associated country shall, unless otherwise provided for in the consortium agreement, also have access rights to results and, subject to any restrictions or limits pursuant to Article 46(3), to background under fair and reasonable conditions if those results and background are needed to exploit the results generated by the participant to which it is affiliated. Such access rights shall be requested and obtained directly from the participant owning the results or background unless otherwise agreed in accordance with Article 46(2).

4. A request for access under paragraphs 1, 2 or 3 may be made up to one year after the end of the action, unless the participants agree on a different time-limit.

Article 49

Access rights for the Union and the Member States

1. The Union institutions, bodies, offices or agencies shall, for the duly justified purpose of developing, implementing and monitoring Union policies or programmes, enjoy access rights solely to the results of a participant that has received Union funding. Such access rights are limited to non-commercial and non-competitive use.

Such access shall be granted on a royalty-free basis.

2. Regarding actions under the specific objective 'Secure societies - Protecting freedom and security of Europe and its citizens' set out in Part III of Annex I to Regulation (EU) No 1291/2013, Union institutions, bodies, offices and agencies, as well as Member States' national authorities, shall, for the purpose of developing, implementing and monitoring their policies or programmes in this area, enjoy the necessary access rights to the results of a participant that has received Union funding. Such access rights shall be limited to non-commercial and non-competitive use. Such access rights shall be granted on a royalty-free basis and upon bilateral agreement defining specific conditions aimed at ensuring that those rights will be used only for the intended purpose and that appropriate confidentiality obligations will be in place. Such access rights shall not extend to the participant's background. The requesting Member State, Union institution, body, office or agency shall notify all Member States of such requests. The Commission rules on security shall apply regarding classified information.

TITLE IV

SPECIFIC PROVISIONS

Article 50

Prizes

1. Union funding may take the form of prizes as defined in Title VII of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.

2. Any prize awarded shall be conditional upon the acceptance of the appropriate publicity obligations. Regarding the dissemination of results, Title III of this Regulation shall apply. The work programme or work plan may contain specific obligations regarding exploitation and dissemination.

Article 51

Procurement, pre-commercial procurement and public procurement of innovative solutions

1. Any procurement carried out by the Commission on its own behalf or jointly with Member States shall be subject to the rules on public procurement set out in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.

2. Union funding may take the form of pre-commercial procurement or the procurement of innovative solutions carried out by the Commission or the relevant funding body on its own behalf or jointly with contracting authorities from Member States and associated countries.

The procurement procedures:

(a) shall comply with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality, with competition rules and,

where applicable, with Directives 2004/17/EC, 2004/18/EC and 2009/81/EC, or, where the Commission acts on its own behalf, with Regulation (EU, Euratom) No 966/2012;

(b) may provide for specific conditions such as the place of performance of the procured activities being limited for pre-commercial procurement, to the territory of the Member States and of countries associated to Horizon 2020 where duly justified by the objectives of the actions;

(c) may authorise the award of multiple contracts within the same procedure (multiple sourcing);

(d) shall provide for the award of the contracts to the tender(s) offering best value for money.

3. Unless otherwise stipulated in the call for tenders, results generated by procurement carried out by the Commission shall be owned by the Union.

4. Specific provisions regarding ownership, access rights and licensing shall be laid down in the contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contractor generating results in pre-commercial procurement shall own at least the attached intellectual property rights. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the participating contractors to grant, non-exclusive licences to third parties to exploit the results under fair and reasonable conditions without any right to sub-license. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.

5. Specific provisions regarding ownership, access rights and licensing may be laid down in the contracts regarding public procurement of innovative solutions to ensure maximum uptake of the results and to avoid any unfair advantage.

Article 52

Financial Instruments

1. Financial instruments may take any of the forms referred to in, and shall be implemented in accordance with, Title VIII of Regulation (EU, Euratom) No 966/2012 and may be combined with each other and with grants funded under the Union budget, including under Regulation (EU) No 1291/2013.

2. By way of derogation from the second subparagraph of Article 140(6) of Regulation (EU, Euratom) No 966/2012, both revenues and annual repayments generated by a financial instrument established under Regulation (EU) No 1291/2013 shall be assigned, in accordance with Article 21(4) of Regulation No 966/2012, to that financial instrument.

3. By way of derogation from the second subparagraph of Article 140(6) of Regulation (EU, Euratom) No 966/2012, both revenues and annual repayments generated by the Risk Sharing Finance facility set up under Decision No 1982/2006/EC and the early stage part of the High-Growth and Innovative SME Facility (GIF1) set up under Decision No 1639/2006/EC, shall be assigned, in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012, to the succeeding financial instruments under Regulation (EU) No 1291/2013.

Article 53

SME Instrument

1. Only SMEs may apply for calls for proposals issued under the dedicated SME instrument referred to in Article 22 of Regulation (EU) No 1291/2013. They may cooperate with other companies, and with research organisations or universities.

2. Once a company has been validated as an SME, that legal status shall be assumed to prevail for the entire duration of the project, even in cases where the company, due to its growth, later exceeds the ceilings of the SME definition.

3. In the case of the SME instrument or grants by funding bodies or by the Commission targeting SMEs, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination.

Article 54

Fast Track to Innovation

1. In accordance with Article 7, any legal entity may participate in a Fast Track to Innovation ("FTI") action. Actions funded under FTI shall be innovation actions. The FTI call shall be open to proposals relating to any technology field under the specific objective "Leadership in enabling and industrial technologies" set out in point 1 of Part II of Annex I to Regulation (EU) No 1291/2013 or to any of the specific objectives under the priority "Societal challenges" set out in points 1 to 7 of Part III of Annex I to that Regulation.

2. Proposals may be submitted at any time. The Commission shall set three cut-off dates per year to evaluate proposals. The period between a cut-off date and signature of the grant agreement or notification of the grant decision shall not

exceed six months. Proposals shall be ranked according to the impact, quality and efficiency of implementation and excellence, with the criterion of impact given a higher weighting. No more than five legal entities shall participate in any one action. The amount of the grant shall not exceed EUR 3 million.

Article 55

Other specific provisions

1. In the case of actions involving security-related activities, the grant agreement may lay down specific provisions, in particular on pre-commercial public procurement, procurement of innovative solutions, changes to the consortium's composition, classified information, exploitation, dissemination, open access to research publications, transfers and licences of results.

2. In the case of actions to support existing or new research infrastructures, the grant agreement may lay down specific provisions relating to users of the infrastructure and to the users' access to them.

3. In the case of ERC frontier research actions, the grant agreement may lay down specific provisions, in particular on access rights, portability and dissemination, or relating to participants, researchers and any party concerned by the action.

4. In the case of training and mobility actions, the grant agreement may lay down specific provisions on commitments relating to the researchers benefiting from the action, ownership, access rights and portability.

5. In the case of coordination and support actions, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination of results.

6. In the case of the Knowledge and Innovation Communities of the EIT, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination.

TITLE V

FINAL PROVISIONS

Article 56

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 1(3) shall be conferred on the Commission for the duration of Horizon 2020.

3. The delegation of power referred to in Article 1(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 1(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 57

Repeal and transitional provisions

1. Regulation (EC) No 1906/2006 is repealed with effect from 1 January 2014.

2. Without prejudice to paragraph 1, this Regulation shall not affect the continuation or modification, including the total or partial termination, of the actions concerned, until their closure, or until the award of financial assistance by the Commission or funding bodies under Decision No 1982/2006/EC or any other legislation applying to that assistance on 31 December 2013, which shall continue to apply to the actions concerned until their closure.

3. Any sums from the participant Guarantee Fund set up by Regulation (EC) No 1906/2006 as well as all its rights and obligations shall be transferred to the Fund as of 31 December 2013. The participants in actions under Decision No 1982/2006/EC signing grant agreements after 31 December 2013 shall make their contribution to the Fund.

Article 58

This Regulation shall enter into force on the third 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 Strasbourg, 11 December 2013.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

V. LEŠKEVIČIUS

**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**

(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 Articles 173(3) and 182(1) 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) It is the Union's objective to strengthen its scientific and technological bases by achieving a European Research Area ("ERA") in which researchers, scientific knowledge and technology circulate freely, and by encouraging the Union to advance towards a knowledge society and to become a more competitive and sustainable economy in respect of its industry. To pursue that objective the Union should carry out activities to implement research, technological development, demonstration and innovation, promote international cooperation, disseminate and optimise results and stimulate training and mobility.

(2) It is also the Union's objective to ensure that the conditions necessary for the competitiveness of Union

industry exist. For this purpose, action should be aimed at fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

(3) The Union is committed to achieving the Europe 2020 strategy which set the objectives of smart, sustainable and inclusive growth, highlighting the role of research and innovation as key drivers of social and economic prosperity and of environmental sustainability and setting itself the goal of increasing spending on research and development in order to attract private investment of up to two thirds of total investments, thereby reaching an accumulative total of 3 % of gross domestic product (GDP) by 2020 while developing an innovation intensity indicator. The general budget of the Union should mirror this ambitious goal by making a shift towards funding future-oriented investments, such as research, development and innovation. In this context, the flagship initiative 'Innovation Union' of the Europe 2020 strategy sets out a strategic and integrated approach to research and innovation, setting the framework and objectives to which future Union research and innovation funding should contribute. Research and innovation are also key factors for other flagship initiatives of the Europe 2020 strategy, notably 'Resource-efficient Europe', 'An industrial policy for the globalisation era', and 'Digital Agenda for Europe', and other policy objectives, such as climate and energy policy. Moreover, for achieving the objectives of the Europe 2020 strategy relating to research and innovation, cohesion policy has a key role to play through capacity-building and providing a stairway to excellence.

(4) The Commission Communication of 19 October 2010 entitled "The EU Budget Review" put forward key principles which should underpin the future general budget of the Union, namely focusing on instruments with proven Union added value, becoming more results-driven and leveraging other public and private sources of funding. It also proposed to bring the full range of Union instruments for research and innovation together in a common strategic framework.

(5) The European Parliament called for the radical simplification of Union research and innovation funding in its resolution of 11 November 2010 ⁽⁴⁾, highlighted the importance of the Innovation Union to transform Europe for the post-crisis world in its resolution of

⁽¹⁾ OJ C 181, 21.6.2012, p. 111.

⁽²⁾ OJ C 277, 13.9.2012, p. 143.

⁽³⁾ Position of the European Parliament of 21 November 2013 (not yet published in the Official Journal) and decision of the Council of 3 December 2013.

⁽⁴⁾ OJ C 74 E, 13.3.2012, p. 34.

12 May 2011 ⁽¹⁾, drew attention to important lessons to be learned following the interim evaluation of the Seventh Framework Programme in its resolution of 8 June 2011 ⁽²⁾ and supported the concept of a common strategic framework for research and innovation funding in its resolution of 27 September 2011 ⁽³⁾.

(6) On 26 November 2010, the Council called for future Union funding programmes to focus more on Europe 2020 priorities, address societal challenges and key technologies, facilitate collaborative and industry-driven research, streamline the instruments, radically simplify access, reduce time to market and further strengthen excellence.

(7) At its meeting of 4 February 2011, the European Council supported the concept of the common strategic framework for Union research and innovation funding to improve the efficiency of such funding at national and Union level and called on the Union to rapidly address remaining obstacles to attracting talent and investment in order to complete the ERA by 2014 and to achieve a genuine single market for knowledge, research and innovation.

(8) The Commission Green Paper of 9 February 2011 entitled 'From Challenges to Opportunities: Towards a Common Strategic Framework for EU Research and Innovation funding' identified key questions on how to achieve the ambitious objectives set in the Commission Communication of 19 October 2010 and launched a broad consultation, in the course of which stakeholders and Union institutions largely agreed with the ideas presented therein.

(9) The importance of a coherent strategic approach was also underlined in opinions delivered by the European Research Area and Innovation Committee (ERAC) on 3 June 2011, the Committee of the Regions on 30 June 2011 ⁽⁴⁾, and the European Economic and Social Committee on 13 July 2011 ⁽⁵⁾.

(10) In its Communication of 29 June 2011 entitled 'A Budget for Europe 2020', the Commission proposed to address with a single common strategic framework for research and innovation the areas covered by the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) ('the Seventh Framework Programme') adopted by Decision No 1982/2006/EC of

the European Parliament and of the Council ⁽⁶⁾, and the innovation part of the Competitiveness and Innovation Framework Programme (2007 to 2013) established by Decision No 1639/2006/EC of the European Parliament and of the Council ⁽⁷⁾, as well as the European Institute of Innovation and Technology (the 'EIT') established by Regulation (EC) No 294/2008 of the European Parliament and of the Council ⁽⁸⁾, in order to contribute to attaining the Europe 2020 strategy target of raising spending on research and development to 3 % of GDP by 2020. In that Communication, the Commission also committed to mainstream climate change into Union spending programmes and to direct at least 20 % of the general budget of the Union to climate-related objectives.

Climate action and resource efficiency are mutually reinforcing objectives for achieving sustainable development. The specific objectives relating to both should be complemented through the other specific objectives of Horizon 2020 – the Framework Programme for Research and Innovation 2014-2020 ('Horizon 2020'), established by this Regulation. As a result it is expected that at least 60 % of the overall Horizon 2020 budget should be related to sustainable development. It is also expected that climate-related expenditure should exceed 35 % of the overall Horizon 2020 budget, including mutually compatible measures improving resource efficiency. The Commission should provide information on the scale and results of support to climate change objectives. Climate-related expenditure under Horizon 2020 should be tracked in accordance with the methodology stated in that Communication.

(11) Horizon 2020 focuses on three priorities, namely generating excellent science in order to strengthen the Union's world-class excellence in science, fostering industrial leadership to support business, including micro, small and medium-sized enterprises (SMEs) and innovation, and tackling societal challenges, in order to respond directly to the challenges identified in the Europe 2020 strategy by supporting activities covering the entire spectrum from research to market. Horizon 2020 should support all stages in the research and innovation chain, including non-technological and social innovation and activities that are closer to the market, with innovation and research actions having a different funding rate based on the principle that the closer to the market the supported activity is, the larger the additional funding from other sources should be. Activities closer to the market include innovative financial instruments, and they aim to satisfy the needs of a broad spectrum of

⁽¹⁾ OJ C 377 E, 7.12.2012, p. 108.

⁽²⁾ OJ C 380 E, 11.12.2012, p. 9.

⁽³⁾ OJ C 56 E, 26.2.2013, p. 1.

⁽⁴⁾ OJ C 259, 2.9.2011, p. 1.

⁽⁵⁾ OJ C 318, 29.10.2011, p. 121.

⁽⁶⁾ 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).

⁽⁷⁾ Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15).

⁽⁸⁾ Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology (OJ L 97, 9.4.2008, p. 1).

- Union policies by placing emphasis on the widest possible use of knowledge generated by the supported activities up to the commercial exploitation of that knowledge. The priorities of Horizon 2020 should also be supported through a programme on nuclear research and training established by Council Regulation (Euratom) No 1314/2013 ⁽¹⁾.
- (12) Horizon 2020 should be open to new participants with a view to ensuring extensive and excellent cooperation with partners throughout the Union and with a view to ensuring an integrated ERA.
- (13) The Joint Research Centre (JRC) should provide customer-driven scientific and technical support to Union policies while flexibly responding to new policy demands.
- (14) In the context of the knowledge triangle of research, innovation and education, the Knowledge and Innovation Communities (KICs) under the EIT should strongly contribute to addressing the objectives of Horizon 2020, including the societal challenges, notably by integrating research, innovation and education. The EIT should foster entrepreneurship in its higher education, research and innovation activities. In particular, it should promote excellent entrepreneurial education and support the creation of start-ups and spin-offs.
- (15) In accordance with Article 182(1) of the Treaty on the Functioning of the European Union (TFEU), Horizon 2020 fixes the maximum overall amount and lays down the detailed rules for Union financial participation therein and the respective shares in each of the activities provided for.
- (16) This Regulation lays down a financial envelope for the entire duration of Horizon 2020 which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽²⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (17) An appropriate proportion of the budget for research infrastructures should be devoted to e-infrastructures.
- (18) Activities within the specific objective 'Future and Emerging Technologies (FET)' should be complementary to the activities within the other parts of Horizon 2020 and, where possible, synergies should be sought.
- (19) It is appropriate to ensure a correct closure of Horizon 2020 and its predecessor programmes, in particular regarding the continuation of multi-annual arrangements for their management, such as the financing of technical and administrative assistance.
- (20) Simplification is a central aim of Horizon 2020 which should be fully reflected in its design, rules, financial management and implementation. Horizon 2020 should aim to attract the strong participation of universities, research centres, industry and specifically SMEs and be open to new participants, as it brings together the full range of research and innovation support in one common strategic framework, including a streamlined set of forms of support, and uses rules for participation with principles applicable to all actions under Horizon 2020. Simpler funding rules should reduce the administrative costs for participation and contribute to the prevention and reduction of financial errors.
- (21) Horizon 2020 should contribute to the aims of the European Innovation Partnerships in line with the flagship initiative 'Innovation Union', bringing together all relevant actors across the whole research and innovation chain with a view to streamlining, simplifying and better coordinating instruments and initiatives.
- (22) With the aim of deepening the relationship between science and society and reinforcing public confidence in science, Horizon 2020 should foster the informed engagement of citizens and civil society in research and innovation matters by promoting science education, by making scientific knowledge more accessible, by developing responsible research and innovation agendas that meet citizens' and civil society's concerns and expectations and by facilitating their participation in Horizon 2020 activities. The engagement of citizens and civil society should be coupled with public outreach activities to generate and sustain public support for Horizon 2020.
- (23) There should be an appropriate balance between small and large projects within the priority 'Societal challenges' and the specific objective 'Leadership in enabling and industrial technologies'.

⁽¹⁾ Council Regulation (Euratom) No 1314/2013 of 11 December 2013 on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework Programme for Research and Innovation (See page 948 of this Official Journal).

⁽²⁾ OJ C 373, 20.12.2013, p. 1.

- (24) The implementation of Horizon 2020 should respond to the evolving opportunities and needs of science and technology, industry, policies and society. As such, the agendas should be set in close liaison with stakeholders from all sectors concerned, and sufficient flexibility should be allowed for new developments. External advice should be sought on a continuous basis for the duration of Horizon 2020, also making use of relevant structures such as European Technology Platforms, Joint Programming Initiatives, the European Innovation Partnerships as well as advice from scientific panels, such as the Scientific Panel for Health.
- (25) The activities developed under Horizon 2020 should promote equality between women and men in research and innovation, by addressing in particular the underlying causes of gender imbalance, by exploiting the full potential of both female and male researchers, and by integrating the gender dimension into the research and innovation content as well as by paying particular attention to ensuring gender balance, subject to the situation in the field of research and innovation concerned, in evaluation panels and in other relevant advisory and expert bodies in order to improve the quality of research and to stimulate innovation. Activities should also aim at implementation of principles relating to equality between women and men as laid down in Articles 2 and 3 of the Treaty on European Union and in Article 8 TFEU.
- (26) Horizon 2020 should contribute to the attractiveness of the research profession in the Union. Adequate attention should be paid to the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, as set out in the Commission Recommendation of 11 March 2005⁽¹⁾, together with other relevant reference frameworks defined in the context of the ERA, while respecting their voluntary nature.
- (27) In order to be able to compete globally, to effectively address major societal challenges, and to achieve the objectives of the Europe 2020 strategy, the Union should make full use of its human resources. In that context, Horizon 2020 should contribute to achieving the ERA, encouraging the development of framework conditions to help European researchers to remain in or to return to Europe, attract researchers from around the world and make Europe a more attractive destination for the best researchers.
- (28) To increase the circulation and exploitation of knowledge, open access to scientific publications should be ensured. Furthermore, open access to research data resulting from publicly funded research under Horizon 2020 should be promoted, taking into account constraints pertaining to privacy, national security and intellectual property rights.
- (29) Research and innovation activities supported by Horizon 2020 should respect fundamental ethical principles. The opinions of the European Group on Ethics in Science and New Technologies should be taken into account. Article 13 TFEU should also be taken into account in research activities, and the use of animals in research and testing should be reduced, with a view ultimately to replacing their use. All activities should be carried out ensuring a high level of human health protection in accordance with Article 168 TFEU.
- (30) Horizon 2020 should have due consideration for equal treatment and non-discrimination in research and innovation content throughout all stages of the research cycle.
- (31) The Commission does not explicitly solicit the use of human embryonic stem cells. The use, if any, of human stem cells, be they adult or embryonic, depends on the judgment of the scientists in view of the objectives they want to achieve and is subject to stringent ethics review. No project involving the use of human embryonic stem cells should be funded that does not obtain the necessary approvals from the Member States. No activity should be funded that is forbidden in all Member States. No activity should be funded in a Member State where such activity is forbidden.
- (32) To achieve maximum impact, Horizon 2020 should develop close synergies with other Union programmes in areas such as education, space, environment, energy, agriculture and fisheries, competitiveness and SMEs, internal security, culture and media.
- (33) Both Horizon 2020 and the cohesion policy seek a more comprehensive alignment with the objectives of the Europe 2020 strategy. This approach calls for increased synergies between Horizon 2020 and the cohesion policy. Therefore Horizon 2020 should also develop close interactions with the European Structural and Investment Funds, which can specifically help to strengthen local, regional and national research and innovation capabilities, particularly in the context of smart specialisation strategies.

⁽¹⁾ OJ L 75, 22.3.2005, p. 67.

- (34) SMEs constitute a significant source of innovation, growth and jobs in Europe. Therefore the strong participation of SMEs, as defined in Commission Recommendation 2003/361/EC ⁽¹⁾, is needed in Horizon 2020. This should support the aims of the Small Business Act, as set out in the Commission Communication of 25 June 2008 entitled "Think Small First" - A "Small Business Act" for Europe". Horizon 2020 should provide a range of means to support the research and innovation activities and capacities of SMEs throughout the different stages of the innovation cycle.
- (35) The Commission should carry out evaluations and record the rate of participation by SMEs in Horizon 2020. If the target of 20 % of the total combined budget for the specific objective "Leadership in enabling and industrial technologies" and the priority "Societal challenges" going to SMEs is not achieved, the Commission should examine the reasons for this situation and should propose, without delay, adequate new measures for allowing SMEs to increase their participation.
- (36) The implementation of Horizon 2020 may give rise to supplementary programmes involving the participation of certain Member States only, the participation of the Union in programmes undertaken by several Member States, or the setting up of joint undertakings or other arrangements within the meaning of Articles 184, 185 and 187 TFEU. Such supplementary programmes should be identified and implemented in an open, transparent and efficient way.
- (37) In order to reduce the time from idea to market, using a bottom-up approach, and to increase the participation of industry, SMEs and first-time applicants in Horizon 2020, the Fast Track to Innovation (FTI) pilot should be implemented within the specific objective "Leadership in enabling and industrial technologies" and within the priority "Societal challenges". It should stimulate private sector investment in research and innovation, promote research and innovation with a focus on value creation and accelerate the development of technologies into innovative products, processes and services.
- (38) The implementation of Horizon 2020 should recognise the unique role that universities play within the scientific and technological base of the Union as institutions of excellence in higher education, research and innovation, with an essential role in linking the European Higher Education Area and the ERA.
- (39) With the aim of achieving the greatest possible impact of Union funding, Horizon 2020 should develop closer synergies, which may also take the form of public-public partnerships, with international, national and regional programmes that support research and innovation. In this context, Horizon 2020 should encourage the optimal use of resources and avoid unnecessary duplication.
- (40) A greater impact should also be achieved by combining Horizon 2020 and private sector funds within public-private partnerships in key areas where research and innovation could contribute to Europe'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 targets 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. The public-private partnerships in the form of Joint Technology Initiatives (JTIs) launched under the Seventh Framework Programme may be continued using structures better suited to their purpose.
- (41) Horizon 2020 should promote cooperation with third countries based on common interest and mutual benefit. International cooperation in science, technology and innovation should be targeted to contribute to achieving the objectives of the Europe 2020 strategy to strengthen competitiveness, contribute to tackling societal challenges and support Union external and development policies, including by developing synergies with external programmes and contributing to the Union's international commitments, such as the achievement of the United Nations' Millennium Development Goals. International cooperation activities should be maintained at least at the level of the Seventh Framework Programme.
- (42) In order to maintain a level playing field for all undertakings active in the internal market, funding from Horizon 2020 should be designed in accordance with State aid rules so as to ensure the effectiveness of public spending and to prevent market distortions, such as crowding-out of private funding, creating ineffective market structures or preserving inefficient businesses.

⁽¹⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (43) The European Council of 4 February 2011 recognised the need for a new approach to control and risk management in Union research funding, calling for a new balance between trust and control and between risk-taking and risk avoidance. The European Parliament, in its resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes, called for a pragmatic shift towards administrative and financial simplification and stated that the management of European research funding should be more trust-based and risk-tolerant towards participants. The interim evaluation report of the Seventh Framework Programme concludes that a more radical approach is needed to attain a quantum leap in simplification and that the risk-trust balance needs to be redressed.
- (44) 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, the imposition of penalties. A revised control strategy, shifting focus from minimisation of error rates towards risk-based control and fraud detection, should reduce the control burden for participants.
- (45) It is important to ensure sound financial management of Horizon 2020 and its implementation in the most effective and user-friendly manner possible, while also ensuring legal certainty and the accessibility of Horizon 2020 to all participants. It is necessary to ensure compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽¹⁾ and with the requirements of simplification and better regulation.
- (46) Effective performance management, including evaluation and monitoring, requires development of specific performance indicators which can be measured over time, which are realistic and reflect the logic of the intervention, and which are relevant to the appropriate hierarchy of objectives and activities. Appropriate coordination mechanisms should be put in place between the implementation and monitoring of Horizon 2020 and the monitoring of progress, achievements and functioning of the ERA.
- (47) By the end of 2017, as part of the Horizon 2020 interim evaluation, both existing and new public-private partnerships, including the JTI, should be subject to an in-depth assessment, which should include, inter alia, an analysis of their openness, transparency and effectiveness. That assessment should take into consideration the evaluation of the EIT as outlined in Regulation (EC) No 294/2008 so as to allow for an assessment based on common principles.
- (48) Since the objectives of this Regulation, namely strengthening the overall research and innovation framework and coordinating efforts across the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of avoiding duplication, retaining critical mass in key areas and ensuring that public financing is used in an optimal way, be better achieved at the level of the Union, 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 those objectives.
- (49) For reasons of legal certainty and clarity, Decision No 1982/2006/EC should be repealed,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) ("Horizon 2020") and determines the framework governing Union support to research and innovation activities, thereby strengthening the European scientific and technological base and fostering benefits for society as well as better exploitation of the economic and industrial potential of policies of innovation, research and technological development.

Article 2

Definitions

For the purposes of this Regulation the following definitions apply:

- (1) 'research and innovation activities' mean the whole spectrum of activities of research, technological development, demonstration and innovation, including the promotion of cooperation with third countries and international organisations, the dissemination and optimisation of results and the stimulation of high quality training and mobility of researchers in the Union;
- (2) 'direct actions' mean research and innovation activities undertaken by the Commission through its Joint Research Centre (JRC);

⁽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).

- (3) 'indirect actions' mean research and innovation activities to which the Union provides financial support and which are undertaken by participants;
- (4) 'public-private partnership' means a partnership where private sector partners, the Union and, where appropriate, other partners, such as public sector bodies, commit to jointly support the development and implementation of a research and innovation programme or activities;
- (5) 'public-public partnership' means a partnership where public sector bodies or bodies with a public service mission at local, regional, national or international level commit with the Union to jointly support the development and implementation of a research and innovation programme or activities;
- (6) 'research infrastructures' mean facilities, resources and services that are used by the research communities to conduct research and foster innovation in their fields. Where relevant, they may be used beyond research, for example for education or public services. They include major scientific equipment or sets of instruments; knowledge-based resources such as collections, archives or scientific data; e-infrastructures such as data and computing systems and communication networks; and any other infrastructure of a unique nature essential to achieving excellence in research and innovation. Such infrastructures may be 'single-sited', 'virtual' or 'distributed';
- (7) 'smart specialisation strategy' has the same meaning as smart specialisation strategy as defined in point (3) of Article 2 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽¹⁾.

Article 3

Establishment of Horizon 2020

Horizon 2020 is hereby established for the period from 1 January 2014 to 31 December 2020.

Article 4

Union added value

Horizon 2020 shall maximise Union added value and impact, focusing on objectives and activities that cannot be efficiently realised by Member States acting alone. Horizon 2020 shall

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

play a central role in the delivery of the Europe 2020 strategy for smart, sustainable and inclusive growth ("Europe 2020 strategy") by providing a common strategic framework for the Union's funding of excellent research and innovation, thus acting as a vehicle for leveraging private and public investment, creating new job opportunities and ensuring Europe's long-term sustainability, growth, economic development, social inclusion and industrial competitiveness, as well as addressing societal challenges across the Union.

Article 5

General objective, priorities and specific objectives

1. The general objective of Horizon 2020 is to contribute to building a society and an economy based on knowledge and innovation across the Union by leveraging additional research, development and innovation funding and by contributing to attaining research and development targets, including the target of 3 % of GDP for research and development across the Union by 2020. It shall thereby support the implementation of the Europe 2020 strategy and other Union policies, as well as the achievement and functioning of the European Research Area (ERA). The first set of relevant performance indicators for assessing progress against the general objective is set out in the introduction of Annex I.

2. The general objective set out in paragraph 1 shall be pursued through three mutually reinforcing priorities dedicated to:

- (a) Excellent science;
- (b) Industrial leadership;
- (c) Societal challenges.

The specific objectives corresponding to each of those three priorities are set out in Parts I to III of Annex I, together with the broad lines of activities.

3. The general objective set out in paragraph 1 shall also be pursued through the specific objectives 'Spreading excellence and widening participation' and 'Science with and for society' set out in Parts IV and V of Annex I respectively, together with the broad lines of activities.

4. The JRC shall contribute to the general objective and the priorities set out in paragraphs 1 and 2 respectively by providing scientific and technical support to Union policies in collaboration with relevant national and regional research stakeholders, where appropriate, for example on the development of smart specialisation strategies. The specific objective and the broad lines of activities are set out in Part VI of Annex I.

5. The European Institute of Innovation and Technology (EIT) shall contribute to the general objective and the priorities set out in paragraphs 1 and 2 respectively, with the specific objective of integrating the knowledge triangle of higher education, research and innovation. The relevant performance indicators for the EIT are set out in the introduction of Annex I and the specific objective together with the broad lines of activities are set out in Part VII of Annex I.

6. Within the priorities, specific objectives and broad lines of activities referred to in paragraphs 2 and 3, account may be taken of new and unforeseen needs that arise during the period of implementation of Horizon 2020. This may, if duly justified, include responses to emerging opportunities, crises and threats, as well as responses to needs relating to the development of new Union policies.

Article 6

Budget

1. The financial envelope for the implementation of Horizon 2020 is set at EUR 77 028,3 million in current prices, of which a maximum of EUR 74 316,9 million shall be allocated to activities under Title XIX TFEU.

The annual appropriations shall be authorised by the European Parliament and by the Council within the limits of the multi-annual financial framework.

2. The amount for activities under Title XIX TFEU shall be distributed among the priorities set out in Article 5(2) of this Regulation as follows:

- (a) Excellent science, EUR 24 441,1 million in current prices;
- (b) Industrial leadership, EUR 17 015,5 million in current prices;
- (c) Societal challenges, EUR 29 679 million in current prices.

The maximum overall amount for the Union financial contribution from Horizon 2020 to the specific objectives set out in Article 5(3) and to the non-nuclear direct actions of the JRC shall be as follows:

- (i) Spreading excellence and widening participation, EUR 816,5 million in current prices;
- (ii) Science with and for society, EUR 462,2 million in current prices;
- (iii) Non-nuclear direct actions of the JRC, EUR 1 902,6 million in current prices.

The indicative breakdown for the priorities and specific objectives set out in Article 5(2) and (3) is set out in Annex II.

3. The EIT shall be financed through a maximum contribution from Horizon 2020 of EUR 2 711,4 million in current prices as set out in Annex II.

4. The financial envelope of Horizon 2020 may cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of Horizon 2020 and the achievement of its objectives, in particular studies and meetings of experts, in so far as they are related to the objectives of Horizon 2020, expenses linked to information technology networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of Horizon 2020.

Where necessary and duly justified, appropriations may be entered in the Horizon 2020 budget beyond 2020 to cover technical and administrative assistance expenses, in order to enable the management of actions not yet completed by 31 December 2020. Horizon 2020 shall fund neither the construction nor the operation of the Galileo programme, the Copernicus programme or the European Joint Undertaking for ITER.

5. In order to respond to unforeseen situations or to new developments and needs the Commission may, following the interim evaluation of Horizon 2020 as referred to in Article 32(3) and the results of the review of the EIT referred to in Article 32(2), within the annual budgetary procedure review the amounts set out for the priorities and the specific objectives 'Spreading excellence and widening participation' and 'Science with and for society' in paragraph 2 of this Article and the indicative breakdown by specific objectives within these priorities set out in Annex II and the contribution to the EIT in paragraph 3 of this Article. The Commission may also, subject to the same conditions, transfer appropriations between the priorities and specific objectives as well as the EIT up to a maximum of 7,5 % of the total initial allocation of each priority and the specific objectives 'Spreading excellence and widening participation' and 'Science with and for society', and up to a maximum of 7,5 % of the initial indicative breakdown of each specific objective and up to a maximum of 7,5 % of the contribution to the EIT. No such transfer shall be allowed in respect of the amount set out for the direct actions of the JRC in paragraph 2 of this Article.

Article 7

Association of third countries

1. Horizon 2020 shall be open to the association of:

- (a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and decisions of association councils or similar agreements;

(b) European Free Trade Association (EFTA) members, or countries or territories covered by the European Neighbourhood Policy that fulfil all of the following criteria:

- (i) a good capacity in science, technology and innovation;
- (ii) a good track record of participation in Union research and innovation programmes;
- (iii) fair and equitable dealing with intellectual property rights;

(c) countries or territories associated to the Seventh Framework Programme.

2. Specific terms and conditions regarding the participation of associated countries in Horizon 2020, including the financial contribution based on the GDP of the associated country, shall be determined by international agreements between the Union and the associated countries.

The terms and conditions regarding the association of the EFTA States that are party to the Agreement on the European Economic Area (EEA) shall be in accordance with the provisions of that Agreement.

TITLE II

IMPLEMENTATION

CHAPTER I

Implementation, management and forms of support

Article 8

Implementation by means of a specific programme and the contribution to the EIT

Horizon 2020 shall be implemented through the consolidated specific programme established by Council Decision 2013/743/EU⁽¹⁾, which shall specify the objectives and the detailed rules for implementation, and through a financial contribution to the EIT.

The specific programme shall set out one Part for each of the three priorities set out in Article 5(2), one Part for each of the specific objectives referred to in Article 5(3) and one Part for the non-nuclear direct actions of the JRC.

There shall be effective coordination between the three priorities of Horizon 2020.

⁽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 (See page 965 of this Official Journal).

Article 9

Management

1. Horizon 2020 shall be implemented by the Commission in accordance with Regulation (EU, Euratom) No 966/2012.

2. The Commission may also entrust part of the implementation of Horizon 2020 to the funding bodies referred to in point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012.

Article 10

Forms of Union support

1. Horizon 2020 shall support indirect actions through one or several of the forms of funding provided for by Regulation (EU, Euratom) No 966/2012, in particular grants, prizes, procurement and financial instruments. Financial instruments shall be the main form of funding for activities close to market that are supported under Horizon 2020.

2. Horizon 2020 shall also support direct actions undertaken by the JRC.

3. Where the direct actions undertaken by the JRC contribute to initiatives established under Article 185 or Article 187 TFEU, this contribution shall not be considered as part of the financial contribution allocated to those initiatives.

Article 11

Rules for participation and dissemination of results

The rules for participation and dissemination of results laid down in Regulation (EU) No 1290/2013 of the European Parliament and of the Council⁽²⁾ shall apply to indirect actions.

CHAPTER II

Programming

Section I

General principles

Article 12

External advice and societal engagement

1. For the implementation of Horizon 2020, account shall be taken of advice and inputs provided by independent advisory groups of high level experts set up by the Commission from a broad constituency of stakeholders, including research, industry and civil society, to provide the necessary inter-disciplinary and cross-sectoral perspectives, taking account of relevant existing initiatives at Union, national and regional level. Other inputs

⁽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 (See page 81 of this Official Journal).

will be provided from dialogue structures created under international science and technology agreements; forward-looking activities; targeted public consultations, including, where appropriate, consultations of national and regional authorities or stakeholders; and transparent and interactive processes that ensure that responsible research and innovation is supported.

Advice on the identification and design of strategic priorities by the European Research Area and Innovation Committee (ERAC), other ERA-related groups and the Enterprise Policy Group (EPG) shall, where appropriate, also be taken into consideration.

2. Full account shall also be taken of relevant aspects of the research and innovation agendas established by, inter alia, the EIT, European Technology Platforms and European Innovation Partnerships, as well as of advice from scientific panels such as the Scientific Panel for Health.

Article 13

Synergies with national programmes and joint programming

1. For the implementation of Horizon 2020, account shall be taken of the need to build appropriate synergies and complementarities between national and European research and innovation programmes, for example in areas where coordination efforts are made through the Joint Programming Initiatives.

2. Union support to Joint Programming Initiatives may be considered with any support to be delivered through the instruments referred to in Article 26, subject to the conditions and criteria laid down for such instruments.

Article 14

Cross-cutting issues

1. Linkages and interfaces shall be implemented across and within the priorities of Horizon 2020. Particular attention shall be paid in this respect to:

- (a) the development and application of key enabling and industrial technologies as well as future and emerging technologies;
- (b) areas relating to bridging from discovery to market application;
- (c) interdisciplinary and cross-sectoral research and innovation;
- (d) social and economic sciences and humanities;

- (e) climate change and sustainable development;
- (f) fostering the functioning and achievement of the ERA and of the flagship initiative 'Innovation Union';
- (g) framework conditions in support of the flagship initiative "Innovation Union";
- (h) contributing to all relevant Europe 2020 flagship initiatives (including the Digital Agenda for Europe);
- (i) widening participation across the Union in research and innovation and helping to close the research and innovation divide in Europe;
- (j) international networks for excellent researchers and innovators such as European Cooperation in Science and Technology (COST);
- (k) cooperation with third countries;
- (l) responsible research and innovation including gender;
- (m) SME involvement in research and innovation and broader private sector participation;
- (n) enhancing the attractiveness of the research profession; and
- (o) facilitating cross-border and cross-sector mobility of researchers.

2. Where an indirect action is supported which is of high relevance to several of the priorities or specific objectives referred to in Article 5(2) and (3), the financial amount for that action may be combined from the amounts allocated to each priority or specific objective concerned.

Article 15

Evolving nature of science, technology, innovation, economies and society

Horizon 2020 shall be implemented in a manner ensuring that the priorities and actions supported are relevant to changing needs and take account of the evolving nature of science, technology, innovation, economies and society in a globalised world, where innovation includes business, organisational, technological, societal and environmental aspects. Proposals for changes to the priorities and actions under Horizon 2020 shall take into account the external advice referred to in Article 12 as well as the recommendations from the interim evaluation referred to in Article 32(3).

*Article 16***Gender equality**

Horizon 2020 shall ensure the effective promotion of gender equality and the gender dimension in research and innovation content. Particular attention shall be paid to ensuring gender balance, subject to the situation in the field of research and innovation concerned, in evaluation panels and in bodies such as advisory groups and expert groups.

The gender dimension shall be adequately integrated in research and innovation content in strategies, programmes and projects and followed through at all stages of the research cycle.

*Article 17***Researchers' careers**

Horizon 2020 shall be implemented in accordance with Regulation (EU) No 1290/2013, which shall contribute to the reinforcement of a single market for researchers and attractiveness of researchers' careers across the Union in the context of the ERA, by taking into account the transnational character of the majority of the actions supported under it.

*Article 18***Open access**

1. Open access to scientific publications resulting from publicly funded research under Horizon 2020 shall be ensured. It shall be implemented in accordance with Regulation (EU) No 1290/2013.

2. Open access to research data resulting from publicly funded research under Horizon 2020 shall be promoted. It shall be implemented in accordance with Regulation (EU) No 1290/2013.

*Article 19***Ethical principles**

1. All the research and innovation activities carried out under Horizon 2020 shall comply with ethical principles and relevant national, Union and international legislation, including the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights and its Supplementary Protocols.

Particular attention shall 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 of a person, the right to non-discrimination and the need to ensure high levels of human health protection.

2. Research and innovation activities carried out under Horizon 2020 shall have an exclusive focus on civil applications.

3. The following fields of research shall not be financed:

- (a) research activity aiming at human cloning for reproductive purposes;
- (b) research activity intended to modify the genetic heritage of human beings which could make such changes heritable⁽¹⁾;
- (c) research activities intended to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer.

4. Research on human stem cells, both adult and embryonic, may be financed, depending both on the contents of the scientific proposal and the legal framework of the Member States involved. No funding shall be granted for research activities that are prohibited in all the Member States. No activity shall be funded in a Member State where such activity is forbidden.

5. The fields of research set out in paragraph 3 of this Article may be reviewed within the context of the interim evaluation set out in Article 32(3) in the light of scientific advances.

*Article 20***Complementarity with other Union programmes**

Horizon 2020 shall be implemented in a way which is complementary to other Union funding programmes and policies, including the European Structural and Investment Funds (ESI Funds), the Common Agricultural Policy, the Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014–2020), the Erasmus+ programme and the Life Programme.

*Article 21***Synergies with the ESI Funds**

In addition to Union, national and regional structural policies, Horizon 2020 shall also contribute to the closing of the research and innovation divide within the Union by promoting synergies with the ESI Funds. Where possible, cumulative funding may be used as set out in Regulation (EU) No 1290/2013.

⁽¹⁾ Research relating to cancer treatment of the gonads can be financed.

Section II

Specific fields of action

Article 22

Micro, small and medium-sized enterprises

1. Particular attention shall be paid to ensuring the adequate participation of, and research and innovation impact on, micro, small and medium-sized enterprises (SMEs) throughout the implementation of Horizon 2020. Quantitative and qualitative assessments of SME participation shall be undertaken as part of the evaluation and monitoring arrangements.

2. In addition to the establishment of better conditions for SMEs to participate in all relevant opportunities in Horizon 2020, specific actions shall be undertaken. In particular, a dedicated SME instrument that is targeted at all types of SMEs with an innovation potential, in a broad sense, shall be created under a single centralised management system and implemented primarily in a bottom-up manner through a continuously open call tailored to the needs of SMEs as set out under the specific objective "Innovation in SMEs" in Point 3.3.(a) of Part II of Annex I. That instrument shall take account of the specific objective "Leadership in enabling and industrial technologies" set out in Point 1 of Part II of Annex I and each of the specific objectives under the priority "Societal challenges" set out in Points 1 to 7 of Part III of Annex I and shall be implemented in a consistent manner.

3. The integrated approach set out in paragraphs 1 and 2 and the simplification of procedures should lead to a minimum of 20 % of the total combined budget for the specific objective "Leadership in enabling and industrial technologies" and the priority "Societal challenges" going to SMEs.

4. Particular attention shall be paid to the adequate representation of SMEs in public-private partnerships referred to in Article 25.

Article 23

Collaborative projects and partnership programmes

Horizon 2020 should be implemented primarily through transnational collaborative projects, delivered through calls for proposals in the Horizon 2020 work programmes provided for in Decision 2013/743/EU. Those projects will be complemented by public-private and public-public partnerships. The partnerships will be designed with the involvement of Member States and shall develop principles for their internal management.

Article 24

Fast Track to Innovation

Fast Track to Innovation (FTI) shall be implemented in the form of a full-scale pilot in accordance with Article 54 of Regulation (EU) No 1290/2013, establishing an FTI call starting in 2015.

Article 25

Public-private partnerships

1. Horizon 2020 may be implemented through public-private partnerships where all the partners concerned commit to supporting 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 addressing specific societal challenges. Public-private partnerships shall be implemented in such a way that full participation of the best European players is not impeded.

2. The involvement of the Union in public-private partnerships shall make use of the pre-existing and lean governance structures and may take one of the following forms:

- (a) financial contributions from the Union to joint undertakings established pursuant to Article 187 TFEU under the Seventh Framework Programme, subject to the amendment of their basic acts; to new public-private partnerships established pursuant to Article 187 TFEU; and to other funding bodies referred to in points (iv) and (vii) of point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012. This form of partnerships shall only be implemented where the scope of the objectives pursued and the scale of the resources required justify it taking full account of the relevant impact assessments, and where other forms of partnerships would not fulfil the objectives or would not generate the necessary leverage;
- (b) contractual arrangements between the partners referred to in paragraph 1, which specify the objectives of the partnership, respective commitments of the partners, key performance indicators, and outputs to be delivered, including the identification of research and innovation activities that require support from Horizon 2020.

With a view to involving interested partners, including, as appropriate, end-users, universities, SMEs and research institutions, public-private partnerships shall make public funds accessible through transparent processes and mainly through competitive calls, governed by rules for participation in compliance with those of Horizon 2020. Exceptions to the use of competitive calls should be duly justified.

3. Public-private partnerships shall be identified and implemented in an open, transparent and efficient way. Their identification shall be based on all of the following criteria:

- (a) the demonstration of the added value of the action at Union level and of the choice of the instrument to be used;
- (b) the scale of impact on industrial competitiveness, job creation, sustainable growth and socio-economic issues, including societal challenges, assessed against clearly specified and measurable objectives;

- (c) the long-term commitment, including a balanced contribution from all partners based on a shared vision and clearly defined objectives;
- (d) the scale of the resources involved and the ability to leverage additional investments in research and innovation;
- (e) a clear definition of roles for each of the partners and agreed key performance indicators over the period chosen;
- (f) complementarity with other parts of Horizon 2020 and alignment with the Union research and innovation strategic priorities, in particular those of the Europe 2020 strategy.

Where appropriate, complementarity between priorities and activities and the involvement of Member States shall be ensured in public-private partnerships.

4. The research priorities covered by public-private partnerships may, where appropriate, be included in regular calls in Horizon 2020 work programmes, in order to develop new synergies with research and innovation activities of strategic importance.

Article 26

Public-public partnerships

1. Horizon 2020 shall contribute to the strengthening of public-public partnerships, as and when appropriate, where actions at regional, national or international level are jointly implemented within the Union.

Particular attention shall be paid to Joint Programming Initiatives between Member States. Joint Programming Initiatives receiving support from Horizon 2020 shall remain open to the participation of any Member State or associated country.

2. Public-public partnerships may be supported either within, or across, the priorities set out in Article 5(2), in particular through:

- (a) an ERA-NET instrument using grants to support public-public partnerships in their preparation, establishment of networking structures, design, implementation and coordination of joint activities, as well as Union topping-up of no more than one joint call a year, and of actions of a transnational nature;
- (b) Union participation in programmes undertaken by several Member States in accordance with Article 185 TFEU where the participation is justified by the scope of the objectives pursued and the scale of the resources required.

For the purposes of point (a) of the first subparagraph, top-up funding shall be conditional on the demonstration of the added value of the action at Union level and on prior indicative financial commitments in cash or in kind of the participating entities to the joint calls and actions. One of the objectives of the ERA-NET instrument may, where possible, be to harmonise rules and implementation modalities of the joint calls and actions. It may also be used in order to prepare for an initiative pursuant to Article 185 TFEU.

For the purposes of point (b) of the first subparagraph, such initiatives shall only be proposed in cases where there is a need for a dedicated implementation structure and where there is a high level of commitment of the participating countries to integration at scientific, management and financial levels. In addition, proposals for such initiatives shall be identified on the basis of all of the following criteria:

- (a) a clear definition of the objective to be pursued and its relevance to the objectives of Horizon 2020 and broader Union policy objectives;
- (b) indicative financial commitments of the participating countries, in cash or in kind, including prior commitments to align national and/or regional investments for transnational research and innovation and, where appropriate, to pool resources;
- (c) the added value of the action at Union level;
- (d) the critical mass, with regard to the size and the number of programmes involved, the similarity or complementarity of activities and the share of relevant research they cover;
- (e) the appropriateness of Article 185 TFEU for achieving the objectives.

Article 27

International cooperation with third countries and international organisations

1. Legal entities, as defined in point 13 of Article 2(1) of Regulation (EU) No 1290/2013, established in third countries and international organisations shall be eligible to participate in indirect actions of Horizon 2020 under the conditions set out in that Regulation. International cooperation with third countries and international organisations shall be promoted and integrated into Horizon 2020 to achieve, in particular, the following objectives:

- (a) strengthening the Union's excellence and attractiveness in research and innovation as well as its economic and industrial competitiveness;

(b) effectively tackling common societal challenges;

(c) supporting the Union's external and development policy objectives, complementing external and development programmes including international commitments and their related goals, such as the achievement of the United Nations' Millennium Development Goals. Synergies with other Union policies will be sought.

2. Targeted actions with the objective of promoting cooperation with specific third countries or groups of third countries, including strategic partners of the Union, shall be implemented on the basis of a strategic approach as well as common interest, priorities, and mutual benefit, taking into account their scientific and technological capabilities and specific needs, market opportunities, and the expected impact of such actions.

Reciprocal access to third country programmes should be encouraged and, where appropriate, monitored. In order to maximise the impact of international cooperation, coordination and synergies with initiatives of Member States and associated countries shall be promoted. The nature of the cooperation may vary according to the specific partner countries.

Cooperation priorities shall take into account developments in Union policies, opportunities for cooperation with third countries, and fair and equitable dealing with intellectual property rights.

3. In addition, horizontal and cross-cutting activities to promote the strategic development of international cooperation shall be implemented under Horizon 2020.

Article 28

Information, communication, exploitation and dissemination

The Commission shall implement information and communication actions concerning Horizon 2020, including communication measures concerning supported projects and results. In particular, it shall provide timely and thorough information to Member States.

The part of the Horizon 2020 budget allocated to communication shall also cover the corporate communication of the Union's political priorities to the extent that they are related to the general objective of this Regulation.

Activities to disseminate information and carry out communication activities shall be an integral part of all actions supported by Horizon 2020. Information and communication concerning Horizon 2020, including on supported projects, shall be made available and accessible in digital form.

In addition, the following specific actions shall be supported:

(a) initiatives aimed at widening awareness and facilitating access to funding under Horizon 2020, in particular for those regions or types of participants that have a relatively low participation;

(b) targeted assistance to projects and consortia to provide them with adequate access to the necessary skills to optimise the communication, exploitation and dissemination of results;

(c) actions which bring together and disseminate results from a range of projects, including those that may be funded from other sources, to provide user-friendly databases and reports that summarise key findings, and, where relevant, communication and dissemination to the scientific community, industry and the general public;

(d) dissemination to policy makers, including standardisation bodies, to promote the use of policy-relevant results by the appropriate bodies at international, Union, national and regional level;

(e) initiatives to foster dialogue and debate on scientific, technological and innovation related issues with the public through involvement of the research and innovation community and civil society organisations, and to take advantage of social media and other innovative technologies and methodologies, especially in order to help raise public awareness of the benefits of research and innovation in meeting societal challenges.

CHAPTER III

Control

Article 29

Control and audit

1. The control system set up for the implementation of this Regulation shall be so designed as to provide reasonable assurance of achieving sufficient reduction and adequate management of the risks relating to the effectiveness and efficiency of the operations as well as the legality and regularity of the underlying transactions, taking into account the multi-annual character of programmes as well as the nature of the payments concerned.

2. The control system shall ensure an appropriate balance between trust and control, taking into account administrative and other costs of controls at all levels, especially for participants, so that the objectives of Horizon 2020 can be achieved and the most excellent researchers and the most innovative enterprises are attracted to it.

3. As part of the control system, the audit strategy for expenditure on indirect actions under Horizon 2020 shall be based on the financial audit of a representative sample of expenditure across Horizon 2020 as a whole. That representative sample shall be complemented by a selection based on an assessment of the risks related to expenditure.

Audits of expenditure on indirect actions under Horizon 2020 shall be carried out in a coherent manner in accordance with the principles of economy, efficiency and effectiveness in order to minimise the audit burden on the participants.

Article 30

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures to ensure that, when actions financed under this Regulation 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 Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under Horizon 2020.

Without prejudice to paragraph 3, audits by the Commission may be carried out up to two years after the payment of the balance.

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 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁾ and Council Regulation (Euratom, EC) No 2185/96⁽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 any Horizon 2020 grant agreement, grant decision or contract.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, grant agreements, grant decisions and contracts, resulting from the implementation of this Regulation, shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

⁽¹⁾ 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⁾ 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).

CHAPTER IV

Monitoring and evaluation

Article 31

Monitoring

1. The Commission shall monitor annually the implementation of Horizon 2020, its specific programme and the activities of the EIT. That monitoring, which shall be based on quantitative and, where appropriate, qualitative evidence, shall include information on cross-cutting topics such as social and economic sciences and humanities, sustainability and climate change, including information on the amount of climate related expenditure, SME participation, private sector participation, gender equality, widening participation and progress against performance indicators. The monitoring shall also include information on the extent of funding for public-private and public-public partnerships, including Joint Programming Initiatives. The monitoring of funding for public-private partnerships shall, where appropriate, be undertaken in close consultation with the participants.

2. The Commission shall report and make publicly available the results of that monitoring.

Article 32

Evaluation

1. Evaluations shall be carried out in a sufficiently timely manner to feed into the decision-making process.

2. By 31 December 2017, the Commission shall carry out, with the assistance of independent experts selected on the basis of a transparent process, a review of the EIT, taking into account the evaluation provided for in Article 16 of Regulation (EC) No 294/2008. The KIC call in 2018 shall be launched subject to a positive outcome of that review. The review shall assess the progress of the EIT against all of the following:

- (a) the level of consumption and the efficiency in the use of the funds allocated according to Article 6(3) of this Regulation, differentiating between the amount used for the development of the first wave of KICs and the effect of the seed money for the subsequent waves, and the ability of the EIT to attract funds from the partners in the KICs and especially from the private sector, as set out in Regulation (EC) No 294/2008;
- (b) the contribution of the EIT and the KICs to the priority "Societal challenges" and the specific objective "Leadership in enabling and industrial technologies" and the performance assessed on the basis of the indicators defined in Annex I;
- (c) the contribution of the EIT and the KICs to the integration of higher education, research and innovation;

(d) the ability of the KICs to integrate relevant new partners where they can provide added value.

3. By 31 December 2017, and taking into account the ex-post evaluation of the Seventh Framework Programme to be completed by 31 December 2015 and the review of the EIT, the Commission shall carry out, with the assistance of independent experts, selected on the basis of a transparent process, an interim evaluation of Horizon 2020, its specific programme, including the European Research Council (ERC), and the activities of the EIT.

The interim evaluation shall assess the progress of the different parts of Horizon 2020 against all of the following:

- (a) the achievements (at the level of results and progress towards achieving an impact, based, where applicable, on the indicators outlined in Annex II of the specific programme) of the objectives of Horizon 2020 and continued relevance of all related measures;
- (b) the efficiency and use of resources, with particular attention to cross-cutting issues and other elements referred to in Article 14(1); and
- (c) Union added value.

As part of the interim evaluation both existing and new public-private partnerships, including the JTI, shall be subject to an in-depth assessment, which shall include, inter alia, analysis of their openness, transparency and effectiveness. That assessment shall take into consideration the evaluation of the EIT as provided for in Article 16 of Regulation (EC) No 294/2008 so as to allow for an assessment based on common principles.

As part of the interim evaluation, FTI shall be subject to an in-depth assessment which shall include an assessment of inter alia its contribution to innovation, industry participation, participation of new applicants, operational effectiveness and financing, and leverage of private investment. Further implementation of the FTI shall be determined on the basis of the evaluation results, and may be adjusted or expanded accordingly.

The interim evaluation shall take into consideration aspects relating to the dissemination and exploitation of research results.

The interim evaluation shall also take into consideration the scope for further simplification and aspects relating to access to funding opportunities for participants in all regions and for the private sector, notably SMEs, as well as the scope for promoting gender balance. It shall additionally take into account the contribution of the measures to the objectives of the Europe 2020 strategy, results as regards the long-term impact of the predecessor measures, and the degree of synergy and interaction with other Union funding programmes, including the ESI Funds.

As part of the interim evaluation, the funding model of Horizon 2020 shall be thoroughly assessed against, inter alia, the following indicators:

- the participation of participants that have at their disposal high-end research infrastructures or have a history of using full-costing in the Seventh Framework Programme;
- the simplification for participants that have at their disposal high-end research infrastructures or have a history of using full-costing in the Seventh Framework Programme;
- the acceptance of the usual accounting practices of beneficiaries;
- extent of use of the additional remuneration to personnel as referred to in Article 27 of Regulation (EU) No 1290/2013.

The interim evaluation shall also take into consideration, where appropriate, information on coordination with research and innovation activities carried out by Member States, including in areas where there are Joint Programming Initiatives.

4. By 31 December 2023, the Commission shall carry out, with the assistance of independent experts, selected on the basis of a transparent process, an ex-post evaluation of Horizon 2020, its specific programme and the activities of the EIT. That evaluation shall cover the rationale, implementation and achievements, as well as the longer-term impacts and sustainability of the measures, to feed into a decision on a possible renewal, modification or suspension of any subsequent measure. The evaluation shall take into consideration aspects relating to the dissemination and exploitation of research results.

5. The performance indicators for assessing progress against the general objective of Horizon 2020 and for the EIT, as set out in the introduction of Annex I, and for the specific objectives as established in the specific programme, including relevant baselines, shall provide the minimum basis for assessing the extent to which the objectives of Horizon 2020 have been achieved.

6. Where appropriate and available, Member States shall provide the Commission with the data and information necessary to make it possible to monitor and evaluate the measures concerned.

7. The Commission shall communicate the conclusions of the evaluations referred to in this Article, accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

TITLE III

FINAL PROVISIONS

*Article 33***Repeal and transitional provisions**

1. Decision No 1982/2006/EC is repealed with effect from 1 January 2014.
2. Notwithstanding paragraph 1, actions initiated under Decision No 1982/2006/EC and financial obligations related to those actions shall continue to be governed by that Decision until their completion.
3. The financial envelope referred to in Article 6 of this Regulation may also cover the technical and administrative assistance expenses necessary to ensure the transition from the measures adopted under Decision No 1982/2006/EC to Horizon 2020.

*Article 34***Entry into force**

This Regulation shall enter into force on the third 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 Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

ANNEX I

Broad lines of the specific objectives and activities

The general objective of Horizon 2020 is to build a society and a world-leading economy based on knowledge and innovation across the whole Union, while contributing to sustainable development. It will support the Europe 2020 strategy and other Union policies as well as the achievement and functioning of the European Research Area (ERA).

The performance indicators for assessing progress against this general objective are:

- the research and development (R&D) target (3 % of GDP) of the Europe 2020 strategy;
- the innovation output indicator in the context of the Europe 2020 strategy ⁽¹⁾;
- the share of researchers in the active population.

This general objective shall be pursued through three distinct, yet mutually reinforcing, priorities, each containing a set of specific objectives. They will be implemented in a seamless manner in order to foster interactions between the different specific objectives, avoid any duplication of effort and reinforce their combined impact.

The Joint Research Centre (JRC) shall contribute to the general objective and priorities of Horizon 2020 with the specific objective of providing customer-driven scientific and technical support to Union policies.

The European Institute of Innovation and Technology (EIT) shall contribute to the general objective and priorities of Horizon 2020 with the specific objective of integrating the knowledge triangle of higher education, research and innovation. The indicators for assessing the performance of the EIT are:

- organisations from universities, business and research integrated in the Knowledge and Innovation Communities (KICs);
- collaboration inside the knowledge triangle leading to the development of innovative products, services and processes.

This Annex sets out the broad lines of the specific objectives and activities referred to in Article 5(2), (3), (4) and (5).

Cross-cutting issues and support measures in Horizon 2020

Cross-cutting issues, an indicative list of which is found in Article 14, will be promoted between specific objectives of the three priorities as necessary to develop new knowledge, key competences and major technological breakthroughs as well as translating knowledge into economic and societal value. Furthermore, in many cases, interdisciplinary solutions will have to be developed which cut across the multiple specific objectives of Horizon 2020. Horizon 2020 will provide incentives for actions dealing with such cross-cutting issues, including by the efficient bundling of budgets.

Social sciences and humanities

Social sciences and humanities research will be fully integrated into each of the priorities of Horizon 2020 and each of the specific objectives and will contribute to the evidence base for policy making at international, Union, national, regional and local level. In relation to societal challenges, social sciences and humanities will be mainstreamed as an essential element of the activities needed to tackle each of the societal challenges to enhance their impact. The specific objective of the societal challenge 'Europe in a changing world - Inclusive, innovative and reflective societies' will support social sciences and humanities research by focusing on inclusive, innovative and reflective societies.

Science and society

The relationship between science and society as well as the promotion of responsible research and innovation, science education and culture shall be deepened and public confidence in science reinforced by activities of Horizon 2020 favouring the informed engagement of citizens and civil society in research and innovation.

⁽¹⁾ COM(2013)0624.

Gender

Promoting gender equality in science and innovation is a commitment of the Union. In Horizon 2020, gender will be addressed as a cross-cutting issue in order to rectify imbalances between women and men, and to integrate a gender dimension in research and innovation programming and content.

SMEs

Horizon 2020 will encourage and support the participation of SMEs in an integrated way across all specific objectives. In accordance with Article 22, measures set out under the specific objective 'Innovation in SMEs' (dedicated SME instrument) shall be applied in the specific objective 'Leadership in enabling and industrial technologies' and in the priority 'Societal challenges'.

Fast Track to Innovation (FTI)

FTI, as set out in Article 24, will support innovation actions under the specific objective "Leadership in enabling and industrial technologies" and under the priority 'Societal challenges', with a bottom-up-driven logic on the basis of a continuously open call, and with 'time to grant' not exceeding six months.

Widening participation

The research and innovation potential of the Member States, despite some recent convergence, remains very different, with large gaps between "innovation leaders" and "modest innovators". Activities shall help close the research and innovation divide in Europe by promoting synergies with the European Structural and Investment Funds (ESI Funds) and also by specific measures to unlock excellence in low performing research, development and innovation (RDI) regions, thereby widening participation in Horizon 2020 and contributing to the realisation of the ERA.

International Cooperation

International cooperation with third countries and international, regional or global organisations is necessary to effectively address many specific objectives set out in Horizon 2020. International cooperation is essential for frontier and basic research in order to reap the benefits from emerging science and technology opportunities. Cooperation is necessary for addressing societal challenges and enhancing the competitiveness of European industry. Promoting R&I staff mobility at an international level is also crucial to enhance this global cooperation. International cooperation in research and innovation is a key aspect of the Union's global commitments. International cooperation will, therefore, be promoted in each of the three priorities of Horizon 2020. In addition, dedicated horizontal activities will be supported in order to ensure the coherent and effective development of international cooperation across Horizon 2020.

Sustainable development and climate change

Horizon 2020 will encourage and support activities towards exploiting Europe's leadership in the race to develop new processes and technologies promoting sustainable development, in a broad sense, and combating climate change. Such a horizontal approach, fully integrated in all Horizon 2020 priorities, will help the Union to prosper in a low-carbon, resource-constrained world while building a resource-efficient, sustainable and competitive economy.

Bridging from discovery to market application

Bridging actions throughout Horizon 2020 are aimed at bringing discovery to market application, leading to exploitation and commercialisation of ideas whenever appropriate. The actions should be based on a broad innovation concept and stimulate cross-sectoral innovation.

Cross-cutting support measures

The cross-cutting issues will be supported by a number of horizontal support measures, including support to: enhancing the attractiveness of the research profession, including the general principles of the European Charter for Researchers; strengthening the evidence base and the development of and support for ERA (including the five ERA initiatives) and the Innovation Union; improving framework conditions in support of the Innovation Union, including the principles of the Commission Recommendation on the management of intellectual property ⁽¹⁾ and exploring the possibility of setting up an European Intellectual Property Rights valorisation instrument; administration and coordination of international networks for excellent researchers and innovators, such as COST.

⁽¹⁾ Commission Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations (C(2008) 1329, of 10.4.2008).

PART I.

PRIORITY 'Excellent science'

This Part aims to reinforce and extend the excellence of the Union's science base and to consolidate the ERA in order to make the Union's research and innovation system more competitive on a global scale. It consists of four specific objectives:

- (a) "The European Research Council (ERC)" shall provide attractive and flexible funding to enable talented and creative individual researchers and their teams to pursue the most promising avenues at the frontier of science, on the basis of Union-wide competition.
- (b) "Future and emerging technologies (FET)" shall support collaborative research in order to extend Europe's capacity for advanced and paradigm-changing innovation. It shall foster scientific collaboration across disciplines on radically new, high-risk ideas and accelerate development of the most promising emerging areas of science and technology as well as the Union-wide structuring of the corresponding scientific communities.
- (c) "Marie Skłodowska-Curie actions" shall provide excellent and innovative research training as well as attractive career and knowledge-exchange opportunities through cross-border and cross-sector mobility of researchers to best prepare them to face current and future societal challenges.
- (d) "Research infrastructures" shall develop and support excellent European research infrastructures and assist them to contribute to the ERA by fostering their innovation potential, attracting world-level researchers and training human capital, and complement this with the related Union policy and international cooperation.

Each of those objectives has been proven to have high Union added value. Together, they form a powerful and balanced set of activities which, in concert with activities at national, regional and local level, span the breadth of Europe's needs regarding advanced science and technology. Bringing them together in a single programme will enable them to operate with greater coherence, in a rationalised, simplified and more focused way, while maintaining the continuity which is vital to sustain their effectiveness.

The activities are inherently forward-looking, building skills in the long term, focusing on the next generation of science, technology, researchers and innovations and providing support for emerging talent from across the Union and associated countries, as well as worldwide. In view of their science-driven nature and largely 'bottom-up', investigator-driven funding arrangements, the European scientific community will play a strong role in determining the avenues of research followed under Horizon 2020

PART II.

PRIORITY 'Industrial leadership'

This Part aims 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. It consists of three specific objectives:

- (a) "Leadership in enabling and industrial technologies" shall provide dedicated support for research, development and demonstration and, where appropriate, for standardisation and certification, on information and communications technology (ICT), nanotechnology, advanced materials, biotechnology, advanced manufacturing and processing and space. Emphasis will be placed on interactions and convergence across and between the different technologies and their relations to societal challenges. User needs shall be taken into account in all these fields.
- (b) "Access to risk finance" shall aim to overcome deficits in the availability of debt and equity finance for R&D and innovation-driven companies and projects at all stages of development. Together with the equity instrument of the Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020) it shall support the development of Union-level venture capital.
- (c) "Innovation in SMEs" shall provide SME-tailored support to stimulate all forms of innovation in SMEs, targeting those with the potential to grow and internationalise across the single market and beyond.

The activities shall follow a business-driven agenda. The budgets for the specific objectives 'Access to risk finance' and 'Innovation in SMEs' will follow a demand-driven, bottom-up logic. Those budgets shall be complemented by the use of financial instruments. A dedicated SME instrument shall be implemented primarily in a bottom-up manner, tailored to the needs of SMEs, taking account of the specific objectives of the priority 'Societal challenges' and the specific objective 'Leadership in enabling and industrial technologies'.

Horizon 2020 will take an integrated approach to the participation of SMEs, taking into account, inter alia, their knowledge and technology transfer needs, which should lead to a minimum of 20 % of the total combined budgets for all specific objectives of the priority 'Societal challenges' and the specific objective 'Leadership in enabling and industrial technologies' being devoted to SMEs.

The specific objective 'Leadership in enabling and industrial technologies' shall follow a technology-driven approach to develop enabling technologies that can be used in multiple areas, industries and services. Applications of these technologies to meet societal challenges shall be supported together with the priority 'Societal challenges'.

PART III.

PRIORITY 'Societal challenges'

This Part responds directly to the policy priorities and societal challenges that are identified in the Europe 2020 strategy and that aim to stimulate the critical mass of research and innovation efforts needed to achieve the Union's policy goals. Funding shall be focused on the following specific objectives:

- (a) Health, demographic change and well-being;
- (b) Food security, sustainable agriculture and forestry, marine, maritime and inland water research, and the bioeconomy;
- (c) Secure, clean and efficient energy;
- (d) Smart, green and integrated transport;
- (e) Climate action, environment, resource efficiency and raw materials;
- (f) Europe in a changing world - Inclusive, innovative and reflective societies;
- (g) Secure societies - Protecting freedom and security of Europe and its citizens.

All the activities shall take a challenge-based approach, which may include basic research, applied research, knowledge transfer or innovation, focusing on policy priorities without predetermining the precise choice of technologies or solutions that should be developed. Non-technological, organisational and systems innovation as well as public sector innovation will be given attention in addition to technology-driven solutions. The emphasis shall be on bringing together a critical mass of resources and knowledge across different fields, technologies and scientific disciplines and research infrastructures in order to address the challenges. The activities shall cover the full cycle from basic research to market, with a new focus on innovation-related activities, such as piloting, demonstration activities, test-beds, support for public procurement, design, end-user driven innovation, social innovation, knowledge transfer and market take-up of innovations and standardisation.

PART IV.

SPECIFIC OBJECTIVE 'SPREADING EXCELLENCE AND WIDENING PARTICIPATION'

The specific objective 'Spreading excellence and widening participation' is to fully exploit the potential of Europe's talent pool and to ensure that the benefits of an innovation-led economy are both maximised and widely distributed across the Union in accordance with the principle of excellence.

PART V.

SPECIFIC OBJECTIVE 'SCIENCE WITH AND FOR SOCIETY'

The aim of the specific objective 'Science with and for society' is to build effective cooperation between science and society, to recruit new talent for science and to pair scientific excellence with social awareness and responsibility.

PART VI.

NON-NUCLEAR DIRECT ACTIONS OF THE JOINT RESEARCH CENTRE (JRC)

The JRC's activities shall be an integral part of Horizon 2020, in order to provide robust, evidence-based support for Union policies. This shall be driven by customer needs, complemented by forward-looking activities.

PART VII.

THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

The EIT shall play a major role by bringing together excellent research, innovation and higher education thus integrating the knowledge triangle. The EIT shall do so primarily through the KICs. In addition it shall ensure that experiences are shared between and beyond the KICs through targeted dissemination and knowledge sharing measures, thereby promoting a faster uptake of innovation models across the Union.

PART I

EXCELLENT SCIENCE**1. European Research Council (ERC)****1.1. Specific objective**

The specific objective is to reinforce the excellence, dynamism and creativity of European research.

Europe has set out its ambition to move to a new economic model based on smart, sustainable and inclusive growth. This type of transformation will need more than incremental improvements to current technologies and knowledge. It will require much higher capacity for basic research and science-based innovation fuelled by radical new knowledge, allowing Europe to take a leading role in creating the scientific and technological paradigm shifts which will be the key drivers of productivity growth, competitiveness, wealth, sustainable development and social progress in the future industries and sectors. Such paradigm shifts have historically tended to originate from the public-sector science base before going on to lay the foundations for whole new industries and sectors.

World-leading innovation is closely associated with excellent science. Once the undisputed leader, Europe has fallen behind in the race to produce the very best cutting-edge science and has played a secondary role to the United States in the major post-war technological advances. Although the Union remains the largest producer of scientific publications in the world, the United States produces twice as many of the most influential papers (the top 1 % by citation count). Similarly, international university rankings show that US universities dominate the top places. In addition, 70 % of the world's Nobel Prize winners are based in the United States.

One part of the challenge is that while Europe and the United States invest similar amounts in their public-sector science bases, the Union has nearly three times as many public-sector researchers, resulting in significantly lower investment per researcher. Moreover, US funding is more selective about allocating resources to the leading researchers. This helps to explain why the Union's public-sector researchers are, on average, less productive and, altogether, make less combined scientific impact than their far less numerous US counterparts.

Another major part of the challenge is that in many European countries the public and private sector still does not offer sufficiently attractive conditions for the best researchers. It can take many years before talented young researchers are able to become independent scientists in their own right. This leads to a dramatic waste of Europe's research potential by delaying and in some cases even inhibiting the emergence of the next generation of researchers, who bring new ideas and energy, and by enticing excellent researchers starting their career to seek advancement elsewhere.

Furthermore, these factors compound Europe's relative unattractiveness in the global competition for scientific talent.

1.2. Rationale and Union added value

The ERC was created to provide Europe's best researchers, both women and men, with the resources they need to allow them to compete better at global level, by funding individual teams on the basis of pan-European competition. It operates autonomously: an independent Scientific Council made up of scientists, engineers and scholars of the highest repute and expertise, of both women and men in different age groups, establishes the

overall scientific strategy and has full authority over decisions on the type of research to be funded. These are essential features of the ERC, guaranteeing the effectiveness of its scientific programme, the quality of its operations and peer-review process and its credibility in the scientific community.

Operating across Europe on a competitive basis, the ERC is able to draw on a wider pool of talents and ideas than would be possible for any national scheme. The best researchers and the best ideas compete against each other. Applicants know they have to perform at the highest level, the reward being flexible funding on a level playing field, irrespective of local bottlenecks or the availability of national funding.

Frontier research funded by the ERC is thereby expected to have a substantial direct impact in the form of advances at the frontiers of knowledge, opening the way to new and often unexpected scientific and technological results and new areas for research which, ultimately, can generate the radically new ideas which will drive innovation and business inventiveness and tackle societal challenges. This combination of excellent individual scientists with innovative ideas underpins every stage of the innovation chain.

Beyond this, the ERC has a significant structural impact by generating a powerful stimulus for driving up the quality of the European research system, over and above the researchers and projects which the ERC funds directly. ERC-funded projects and researchers set a clear and inspirational target for frontier research in Europe, raise its profile and make it more attractive for the best researchers at global level. The prestige of hosting ERC grant-holders and the accompanying 'stamp of excellence' are intensifying competition between Europe's universities and other research organisations to offer the most attractive conditions for top researchers. And the ability of national systems and individual research institutions to attract and host ERC grant-winners sets a benchmark allowing them to assess their relative strengths and weaknesses and reform their policies and practices accordingly. ERC funding is therefore in addition to ongoing efforts at Union, national and regional level to reform, build capacity and unlock the full potential and attractiveness of the European research system.

1.3. *Broad lines of the activities*

The fundamental activity of the ERC shall be to provide attractive long-term funding to support excellent investigators and their research teams to pursue ground-breaking, high-gain/high-risk research.

ERC funding shall be awarded in accordance with the following well-established principles. Scientific excellence shall be the sole criterion on which ERC grants are awarded. The ERC shall operate on a 'bottom-up' basis without predetermined priorities. The ERC grants shall be open to individual teams of researchers of any age, gender, and from any country in the world, working in Europe. The ERC shall aim to foster healthy competition across Europe based on robust, transparent and impartial evaluation procedures which address, in particular, potential gender bias.

The ERC shall give particular priority to assisting the best starting researchers with excellent ideas to make the transition to independence by providing adequate support at the critical stage when they are setting up or consolidating their own research team or programme. The ERC will also continue to provide appropriate levels of support for established researchers.

The ERC shall also give support, as necessary, to new ways of working in the scientific world with the potential to create breakthrough results and to facilitate exploration of the commercial and social innovation potential of the research which it funds.

By 2020, the ERC shall therefore aim to demonstrate that the best researchers are participating in the ERC's competitions, that ERC funding has led to scientific publications of the highest quality and to research results with high societal and economic potential impact, and that the ERC has contributed significantly to making Europe a more attractive environment for the world's best scientists. In particular, the ERC shall target a measurable improvement in the Union's share of the world's top 1 % most highly cited publications. In addition it shall aim at a substantial increase in the number of excellent researchers from outside Europe whom it funds. The ERC shall share experience and best practices with regional and national research funding agencies in order to promote the support of excellent researchers. In addition, the ERC shall further raise the visibility of its programmes.

The ERC's Scientific Council shall continuously monitor the ERC's operations and evaluation procedures and consider how best to achieve its objectives by means of grant schemes that emphasise effectiveness, clarity, stability and simplicity, both for applicants and in their implementation and management, and, as necessary, to respond to emerging needs. It shall endeavour to sustain and further refine the ERC's world-class peer-review system which is based on fully transparent, fair and impartial treatment of proposals so that it can identify

ground-breaking scientific excellence, breakthrough ideas and talent regardless of a researcher's gender, nationality, institution or age. Finally, the ERC shall continue conducting its own strategic studies to prepare for and support its activities, maintain close contacts with the scientific community, the regional and national funding agencies and other stakeholders and aim to make its activities complement research conducted at other levels.

The ERC will ensure transparency in communication about its activities and results to the scientific community and the general public and maintain updated data from funded projects.

2. **Future and Emerging Technologies (FET)**

2.1. *Specific objective*

The specific objective is to foster radically new technologies with the potential to open new fields for scientific knowledge and technologies and contribute to the European next generation industries, by exploring novel and high-risk ideas building on scientific foundations. By providing flexible support to goal-oriented and interdisciplinary collaborative research on various scales and by adopting innovative research practices, the aim is to identify and seize opportunities of long-term benefit for citizens, the economy and society. FET will bring Union added value to the frontiers of modern research.

FET shall promote research and technology beyond what is known, accepted or widely adopted and shall foster novel and visionary thinking to open promising paths towards powerful new technologies, some of which could develop into leading technological and intellectual paradigms for the decades ahead. FET shall foster efforts to pursue small-scale research opportunities across all areas, including emerging themes and grand scientific and technological challenges that require close collaboration between programmes across Europe and beyond. This approach shall be driven by excellence and extends to exploring pre-competitive ideas for shaping the future of technology, enabling society and industry to benefit from multi-disciplinary research collaboration that needs to be engaged at European level by making the link between research driven by science and research driven by societal goals and challenges or by industrial competitiveness.

2.2. *Rationale and Union added value*

Radical breakthroughs with a transformative impact increasingly rely on intense collaboration across disciplines in science and technology (for instance, information and communication, biology, bioengineering and robotics, chemistry, physics, mathematics, medicine modelling, Earth system sciences, material sciences, neuro- and cognitive sciences, social sciences or economics) and with the arts, behavioural sciences and humanities. This may require not only excellence in science and technology but also new attitudes and novel interactions between a broad range of players in research.

While some ideas can be developed on a small scale, others may be so challenging that they require a large collaborative effort over a substantial period of time. Major economies worldwide have recognised this, and there is growing global competition to identify and pursue emerging technological opportunities at the frontier of science which can generate a considerable impact on innovation and benefits for society. To be effective, these types of activities may need to be built up quickly to a large scale by a common European effort around common goals to build critical mass, foster synergies and obtain optimal leveraging effects.

FET shall address the entire spectrum of science-driven innovation: from bottom-up, small-scale early explorations of embryonic and fragile ideas to building new research and innovation communities around transformative emerging research areas and large collaborative research initiatives built around a research agenda aiming to achieve ambitious and visionary goals. These three levels of engagement each have their own specific value, while being complementary and synergistic. For example, small-scale explorations can reveal needs for developing new themes that can lead to large-scale action based on appropriate roadmaps. They may involve a wide range of research players, including young researchers and research-intensive SMEs, and stakeholder communities (civil society, policymakers, industry and public researchers), clustered around evolving research agendas as they take shape, mature and diversify.

2.3. *Broad lines of activities*

While FET aims to be visionary, transformative and unconventional, its activities shall follow different logics, from completely open to varying degrees of structuring of topics, communities and funding.

The activities shall give firmer shape to different logics for action, on the appropriate scale, identifying and seizing opportunities of long-term benefit for citizens, the economy and society:

- (a) By fostering novel ideas ('FET Open'), FET shall support early stage science and technology research exploring new foundations for radically new future technologies by challenging current paradigms and venturing into unknown areas. A bottom-up selection process widely open to any research ideas shall build up a diverse portfolio of targeted projects. Early detection of promising new areas, developments and trends, along with attracting new and high-potential research and innovation players, will be key factors.
- (b) By nurturing emerging themes and communities ('FET Proactive'), FET shall, in close association with the societal challenges and industrial leadership themes, address a number of promising exploratory research themes with the potential to generate a critical mass of inter-related projects that, together, make up a broad and multi-faceted exploration of the themes and build a European pool of knowledge.
- (c) By pursuing grand interdisciplinary scientific and technological challenges ('FET Flagships'), FET shall, taking into full account the outcome of FET preparatory projects, support ambitious large-scale, science and technology-driven research aiming to achieve a scientific and technological breakthrough in areas identified as relevant in an open and transparent manner involving the Member States and relevant stakeholders. Such activities could benefit from the coordination between European, national and regional agendas. The scientific advance should provide a strong and broad basis for future technological innovation and economic application, plus novel benefits for society. These activities shall be realised using the existing funding instruments.

40 % of FET resources will be devoted to FET Open.

3. **Marie Skłodowska-Curie Actions**

3.1. *Specific objective*

The specific objective is to ensure optimal development and dynamic use of Europe's intellectual capital in order to generate, develop and transfer new skills, knowledge and innovation and, thus, to realise its full potential across all sectors and regions.

Well-trained, dynamic and creative researchers are the essential element for the best science and the most productive research-based innovation.

Although Europe hosts a large and diversified pool of skilled human resources for research and innovation, this needs to be constantly replenished, improved and adapted to the rapidly evolving needs of the labour market. In 2011 only 46 % of this pool worked in the business sector, which is much lower than in Europe's main economic competitors, e.g. 69 % in China, 73 % in Japan and 80 % in the United States. In addition, demographic factors mean that a disproportionate number of researchers will reach retirement age in the next few years. This, combined with the need for many more high-quality research jobs as the research intensity of the European economy increases, will be one of the main challenges facing European research, innovation and education systems in the years ahead.

The necessary reform must start at the first stages of the researchers' careers, during their doctoral studies or comparable post-graduate training. Europe must develop state-of-the-art, innovative training schemes, consistent with the highly competitive and increasingly inter-disciplinary requirements of research and innovation. Significant involvement of businesses, including SMEs and other socio-economic actors, will be needed to equip researchers with the cross-cutting innovation and entrepreneurial skills demanded by the jobs of tomorrow and encourage them to consider their careers in industry or in the most innovative companies. It will also be important to enhance the mobility of these researchers, as it currently remains at a too modest level: in 2008, only 7 % of European doctoral candidates were trained in another Member State, whereas the target is 20 % by 2030.

This reform must continue through every stage of researchers' careers. It is vital to increase the mobility of researchers at all levels, including mid-career mobility, not only between countries but also between the public and private sectors. This creates a strong stimulus for learning and developing new skills. It is also a key factor in cooperation between academics, research centres and industry across countries. The human factor is the backbone

of sustainable cooperation which is the key driver for an innovative and creative Europe able to face societal challenges, and key to overcoming fragmentation of national policies. Collaborating and sharing knowledge, through individual mobility at all stages of a career and through exchanges of highly skilled R&I staff, are essential for Europe to re-take the path to sustainable growth, to tackle societal challenges and thereby contribute to overcoming disparities in research and innovation capacities.

In this context, Horizon 2020 should also encourage career development and mobility of researchers through improved conditions to be defined for the portability of Horizon 2020 grants.

Marie Skłodowska-Curie actions will ensure effective equal opportunities for the mobility of male and female researchers, including through specific measures to remove barriers.

If Europe is to match its competitors in research and innovation, it must entice more young women and men to embark on research careers and provide highly attractive opportunities and environments for research and innovation. The most talented individuals, from Europe and elsewhere, should see Europe as a pre-eminent place to work. Gender equality, high-quality and reliable employment and working conditions and recognition are crucial aspects that must be secured in a consistent way across the whole of Europe.

3.2. *Rationale and Union added value*

Neither Union funding alone nor Member States individually will be able to address this challenge. Although Member States have introduced reforms to improve their tertiary education institutions and modernise their training systems, progress is still uneven across Europe, with big differences between countries. Overall, scientific and technological cooperation between the public and private sectors generally remains weak in Europe. The same applies to gender equality and to the efforts to attract students and researchers from outside the ERA. Currently around 20 % of the doctoral candidates in the Union are citizens of third countries, whereas about 35 % in the United States come from abroad. To speed up this change, a strategic approach that goes beyond national borders is required at Union level. Union funding is crucial to create incentives for and encourage the indispensable structural reforms.

The Marie Skłodowska-Curie actions have made remarkable progress to promote mobility, both transnational and intersectoral, and to open research careers at European and international level, with excellent employment and working conditions following the principles of the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers. There is no equivalent in Member States as far as their scale and scope, funding, international character, generation and transfer of knowledge are concerned. They have strengthened the resources of those institutions able to attract researchers internationally and thereby encouraged the spread of centres of excellence around the Union. They have served as a role model with a pronounced structuring effect by spreading their best practices at national level. The bottom-up approach taken by Marie Skłodowska-Curie actions has also allowed a large majority of those institutions to train and upgrade the skills of a new generation of researchers able to tackle societal challenges.

Further development of the Marie Skłodowska-Curie actions will make a significant contribution to development of the ERA. With their Europe-wide competitive funding structure, Marie Skłodowska-Curie actions will, whilst respecting the principle of subsidiarity, encourage new, creative and innovative types of training such as joint or multiple doctoral degrees and industrial doctorates, involving research, innovation and education players who will have to compete globally for a reputation of excellence. By providing Union funding for the best research and training programmes following the principles for innovative doctoral training in Europe, they will also promote wider dissemination and take-up, moving towards more structured doctoral training.

Marie Skłodowska-Curie grants will also be extended to the temporary mobility of experienced researchers and engineers from public institutions to the private sector or vice versa, thereby encouraging and supporting universities, research centres and businesses, and other socio-economic actors to cooperate with one another on a European and international scale. With the aid of their well-established, transparent and fair evaluation system, Marie Skłodowska-Curie actions will identify excellent talents in research and innovation in an international competition which gives prestige and therefore motivation for researchers to advance their career in Europe.

The societal challenges to be addressed by highly skilled R&I staff are not just Europe's problem. These are international challenges of colossal complexity and magnitude. The best researchers in Europe and in the world need to work together across countries, sectors and disciplines. Marie Skłodowska-Curie actions will play a key role in this respect by supporting staff exchanges that will foster collaborative thinking through international and intersectoral knowledge-sharing that is so crucial for open innovation.

The co-funding mechanism of the Marie Skłodowska-Curie actions will be crucial to expand Europe's pool of talents. The numerical and structural impact of Union action will be increased by leveraging regional, national and international funding, both public and private, to create new programmes with similar and complementary goals and to adapt existing ones to international and intersectoral training, mobility and career development. Such a mechanism will forge stronger links between research and education efforts at national and Union level.

All the activities under this challenge will contribute to creating a whole new mindset in Europe that is crucial for creativity and innovation. Marie Skłodowska-Curie funding measures will strengthen pooling of resources in Europe and thereby lead to improvements in coordination and governance of researchers' training, mobility and career development. They will contribute to the policy goals outlined in the flagship initiatives 'Innovation Union', 'Youth on the Move' and 'Agenda for New Skills and Jobs' and will be vital to turn the ERA into reality. The Marie Skłodowska-Curie actions will therefore be developed in close synergy with other programmes supporting these policy objectives, including the Erasmus+ programme and the KICs of the EIT.

3.3. *Broad lines of activities*

(a) Fostering new skills by means of excellent initial training of researchers

The goal is to train a new generation of creative and innovative researchers, able to convert knowledge and ideas into products and services for economic and social benefit in the Union.

Key activities shall be to provide excellent and innovative training to early-stage researchers at post-graduate level through interdisciplinary projects, including mentoring to transfer knowledge and experience between researchers or doctoral programmes, helping researchers to develop their research career and involving universities, research institutions, research infrastructures, businesses, SMEs and other socio-economic groups from different Member States, associated countries and/or third countries. This will improve career prospects for young post-graduate researchers in both the public and private sectors.

(b) Nurturing excellence by means of cross-border and cross-sector mobility

The goal is to enhance the creative and innovative potential of experienced researchers at all career levels by creating opportunities for cross-border and cross-sector mobility.

Key activities shall be to encourage experienced researchers to broaden or deepen their skills by means of mobility by opening attractive career opportunities in universities, research institutions, research infrastructures, businesses, SMEs and other socio-economic groups all over Europe and beyond. This should enhance the innovativeness of the private sector and promote cross-sector mobility. Opportunities to be trained and to acquire new knowledge in a third-country high-level research institution, to restart a research career after a break and to (re-)integrate researchers into a longer-term research position in Europe, including in their country of origin, after a trans-national/international mobility experience covering return and reintegration aspects, shall also be supported.

(c) Stimulating innovation by means of cross-fertilisation of knowledge

The goal is to reinforce international cross-border and cross-sector collaboration in research and innovation by means of exchanges of research and innovation personnel in order to be able to face global challenges better.

Key activities shall be to support exchanges of R&I staff among a partnership of universities, research institutions, research infrastructures, businesses, SMEs and other socio-economic groups, both within Europe and worldwide. This will include fostering cooperation with third countries.

(d) Increasing the structural impact by co-funding the activities

The goal is, by leveraging additional funds, to increase the numerical and structural impact of Marie Skłodowska-Curie actions and to foster excellence at national level in researchers' training, mobility and career development.

Key activities shall be, with the aid of a co-funding mechanism, to encourage regional, national and international organisations, both public and private, to create new programmes and to adapt existing ones to international and intersectoral training, mobility and career development. This will increase the quality of

research training in Europe at all career stages, including at doctoral level, foster free circulation of researchers and scientific knowledge in Europe, promote attractive research careers by offering open recruitment and attractive working conditions, and support research and innovation cooperation between universities, research institutions and enterprises and cooperation with third countries and international organisations.

(e) Specific support and policy action

The goals are to monitor progress, identify gaps and barriers in the Marie Skłodowska-Curie actions and to increase their impact. In this context, indicators shall be developed and data related to researchers' mobility, skills, careers and gender equality analysed, seeking synergies and close coordination with the policy support actions on researchers, their employers and funders carried out under the specific objective 'Europe in a changing world - Inclusive, innovative and reflective societies'. The activity shall further aim at raising awareness of the importance and attractiveness of a research career and at disseminating research and innovation results emanating from work supported by Marie Skłodowska-Curie actions.

4. Research Infrastructures

4.1. Specific objective

The specific objective is to endow Europe with world-class research infrastructures which are accessible to all researchers in Europe and beyond and which fully exploit their potential for scientific advance and innovation.

Research infrastructures are key determinants of Europe's competitiveness across the full breadth of scientific domains and essential to science-based innovation. In many fields research is impossible without access to supercomputers, analytical facilities, radiation sources for new materials, clean rooms and advanced metrology for nanotechnologies, specially equipped labs for biological and medical research, databases for genomics and social sciences, observatories and sensors for the Earth sciences and the environment, high-speed broadband networks for transferring data, etc. Research infrastructures are necessary to carry out the research needed to address major societal challenges. They propel collaboration across borders and disciplines and create a seamless and open European space for online research. They promote mobility of people and ideas, bring together the best scientists from across Europe and the world and enhance scientific education. They challenge researchers and innovative companies to develop state of the art technology. In this way, they strengthen Europe's high-tech innovative industry. They drive excellence within the European research and innovation communities and can be outstanding showcases of science for society at large.

Europe must establish, on the basis of commonly agreed criteria, an adequate, stable base for building, maintaining and operating research infrastructures if its research is to remain world-class. This requires substantial and effective cooperation between Union, national and regional funders for which strong links with the cohesion policy will be pursued to ensure synergies and a coherent approach.

This specific objective addresses a core commitment of the flagship initiative 'Innovation Union', which highlights the crucial role played by world-class research infrastructures in making ground-breaking research and innovation possible. The initiative stresses the need to pool resources across Europe, and in some cases globally, in order to build and operate research infrastructures. Equally, the flagship initiative 'Digital Agenda for Europe' emphasises the need to reinforce Europe's e-infrastructures and the importance of developing innovation clusters to build Europe's innovative advantage.

4.2. Rationale and Union added value

State-of-the-art research infrastructures are becoming increasingly complex and costly, often requiring integration of different equipment, services and data sources and extensive transnational collaboration. No single country has enough resources to support all the research infrastructures it needs. The European approach to research infrastructures has made remarkable progress in recent years with continuously developing and implementing the European Strategy Forum on Research Infrastructures (ESFRI) roadmap for infrastructures, integrating and opening national research facilities and developing e-infrastructures underpinning an open digital ERA. The networks of research infrastructures across Europe strengthen its human resource base by providing world-class training for a new generation of researchers and engineers and promoting interdisciplinary collaboration. Synergies with Marie Skłodowska-Curie actions will be encouraged.

Further development and wider use of research infrastructures at European level will make a significant contribution to development of the ERA. While the role of Member States remains central in developing and financing research infrastructures, the Union plays an important part in supporting infrastructure at European level such as encouraging co-ordination of European research infrastructures, by fostering the emergence of new and integrated facilities, opening up and supporting broad access to national and European infrastructures, and making sure that regional, national, European and international policies are consistent and effective. It is necessary to avoid duplication and fragmentation of efforts, to foster coordinated and effective use of the facilities and, where appropriate, to pool resources so that Europe can also acquire and operate research infrastructures at world-class level.

ICT has transformed science by enabling remote collaboration, massive data processing, in silico experimentation and access to distant resources. Research therefore becomes increasingly transnational and interdisciplinary, requiring the use of ICT infrastructures that are as supranational as science itself.

The efficiencies of scale and scope achieved by a European approach to construction, use and management of research infrastructures, including e-infrastructures, will make a significant contribution to boosting Europe's research and innovation potential and make the Union more competitive at international level.

4.3. *Broad lines of the activities*

The activities shall aim at developing the European research infrastructures for 2020 and beyond, fostering their innovation potential and human resources and reinforcing European research infrastructure policy.

(a) Developing the European research infrastructures for 2020 and beyond

The aim shall be to facilitate and support actions linked to: (1) the preparation, implementation and operation of the ESFRI and other world-class research infrastructures, including the development of regional partner facilities, when a strong added value for Union intervention exists; (2) the integration of and transnational access to national and regional research infrastructures of European interest, so that European scientists can use them, irrespective of their location, to conduct top-level research; (3) the development, deployment and operation of e-infrastructures to ensure world-leading capability in networking, computing and scientific data.

(b) Fostering the innovation potential of research infrastructures and their human resources

The aims shall be to encourage research infrastructures to act as early adopters or developers of cutting-edge technology, to promote R&D partnerships with industry, to facilitate industrial use of research infrastructures and to stimulate the creation of innovation clusters. This activity shall also support training and/or exchanges of staff managing and operating research infrastructures.

(c) Reinforcing European research infrastructure policy and international cooperation

The aim shall be to support partnerships between relevant policymakers and funding bodies, mapping and monitoring tools for decision-making and also international cooperation activities. European research infrastructures may be supported in their international relations activities.

The objectives set out under activity lines (b) and (c) shall be pursued by dedicated actions, as well as within the actions developed under activity line (a), when appropriate.

PART II

INDUSTRIAL LEADERSHIP

1. **Leadership in enabling and industrial technologies**

The specific objective is to maintain and build global leadership through research and innovation in enabling technologies and space, which underpin competitiveness across a range of existing and emerging industries and sectors.

The global business environment is changing rapidly and the objectives of the Europe 2020 strategy present challenges and opportunities to European industry. Europe needs to accelerate innovation, transforming the knowledge generated to underpin and enhance existing products, services and markets, and to create new ones while maintaining focus on quality and sustainability. Innovation should be exploited in the widest sense, going beyond technology to include business, organisational and social aspects.

To stay at the forefront of global competition with a strong technological base and industrial capabilities, increased strategic investments in research, development, validation and piloting are required in ICT, nanotechnologies, advanced materials, biotechnology, advanced manufacturing and processing, and space.

The successful mastering, integration and deployment of enabling technologies by European industry is a key factor in strengthening Europe's productivity and innovation capacity and ensuring that Europe has an advanced, sustainable and competitive economy, global leadership in hi-tech application sectors and the ability to develop effective and sustainable solutions for societal challenges. The pervasive nature of such activities can spur further progress through complementary inventions, applications and services, ensuring a higher return on investment in these technologies than in any other field.

These activities will contribute to the objectives of the flagship initiatives 'Innovation Union', 'Resource-efficient Europe', 'An industrial policy for the globalisation era', and 'Digital Agenda for Europe' of the Europe 2020 strategy, as well as to Union space policy objectives.

Complementarities with other activities in Horizon 2020

The activities under the specific objective 'Leadership in Enabling and Industrial Technologies' will be primarily based on research and innovation agendas mainly defined by industry and business, including SMEs, together with the research community and Member States in an open and transparent manner and have a strong focus on leveraging private sector investment and on innovation.

The integration of enabling technologies in solutions for the societal challenges shall be supported together with the relevant challenges. Applications of enabling technologies that do not fall under the societal challenges, but are important for reinforcing the competitiveness of European industry, shall be supported under the specific objective 'Leadership in Enabling and Industrial Technologies'. Appropriate coordination should be sought with the priorities 'Excellent Science' and 'Societal Challenges'.

A common approach

The approach shall include both agenda-driven activities and more open areas to promote innovative projects and breakthrough solutions covering the whole value chain, including R&D, large-scale pilots and demonstration activities, test beds and living labs, prototyping and product validation in pilot lines. Activities shall be designed to boost industrial competitiveness by stimulating industry, and in particular SMEs, to make more research and innovation investment, including through open calls. Adequate focus will be given to small and medium scale projects.

An integrated approach to Key Enabling Technologies

A major component of the specific objective 'Leadership in Enabling and Industrial Technologies' are Key Enabling Technologies (KETs), defined as micro- and nanoelectronics, photonics, nanotechnology, biotechnology, advanced materials and advanced manufacturing systems⁽¹⁾. These multi-disciplinary, knowledge and capital-intensive technologies cut across many diverse sectors providing the basis for significant competitive advantage for European industry, for stimulating growth and for creating new jobs. An integrated approach, promoting the combination, convergence and cross-fertilisation effect of KETs in different innovation cycles and value chains can deliver promising research results and open the way to new industrial technologies, products, services and novel applications (e.g. in space, transport, agriculture, fisheries, forestry, environment, food, health and energy). The numerous interactions of KETs and other industrial enabling technologies will therefore be exploited in a flexible manner, as an important source of innovation. This will complement support for research and innovation in KETs that may be provided by national or regional authorities under the Cohesion Policy Funds within the framework of smart specialisation strategies.

Innovation requires enhanced cross-technology research efforts. Therefore, multidisciplinary and multi-KET projects should be an integral part of the priority 'Industrial Leadership'. The Horizon 2020 implementation structure supporting KETs and cross-cutting KET activities (multi KETs) should ensure synergies and effective coordination, among others, with societal challenges. In addition, synergies will be sought, where appropriate, between KET activities and the activities under the cohesion policy for 2014-2020, as well as with the EIT.

⁽¹⁾ COM(2009)0512.

For all the enabling and industrial technologies, including the KETs, a major aim will be to foster interactions between the technologies and with the applications under the societal challenges. This shall be fully taken into account in developing and implementing the agendas and priorities. It requires that stakeholders representing the different perspectives are fully involved in priority setting and implementation. In certain cases, it will also require actions that are jointly funded by the enabling and industrial technologies and by the relevant societal challenges. This could include joint funding for public-private partnerships that aim to develop technologies, foster innovation and apply such technologies to address societal challenges.

ICT plays an important role as it provides the key basic infrastructures, technologies and systems for vital economic and social processes and new private and public products and services. European industry needs to remain at the cutting edge of technological developments in ICT, where many technologies are entering a new disruptive phase, opening up new opportunities.

Space is a rapidly growing sector which delivers information vital to many areas of modern society, meeting its fundamental demands, addresses universal scientific questions, and serves to secure the Union's position as a major player on the international stage. Space research underpins all activities undertaken in space, but is currently addressed in programmes run by Member States, the European Space Agency (ESA) or in the context of Union Framework Programmes for Research. Union level action and investment in space research are required in accordance with Article 189 TFEU, in order to maintain the competitive edge, to safeguard Union space infrastructures and programmes such as Copernicus and Galileo and to sustain a future role for Europe in space.

In addition, innovative downstream services and user-friendly applications using space derived information represent an important source of growth and job creation, and their development represents an important opportunity for the Union.

Partnering and added value

Europe can achieve critical mass through partnering, clusters and networks, standardisation, promoting cooperation between different scientific and technological disciplines and sectors with similar research and development needs, leading to breakthroughs, new technologies and innovative product, service and process solutions.

The development and implementation of research and innovation agendas including through public-private partnerships, but also by the building of effective industry-academia links, the leveraging of additional investments, the access to risk finance, standardisation and the support to pre-commercial procurement and the procurement of innovative products and services, are all aspects that are essential in addressing competitiveness.

In this regard, strong links with the EIT are also needed to produce and promote entrepreneurial top talents and to speed up innovation by bringing together people from different countries, disciplines and organisations.

Union level collaboration can also support trade opportunities through the support for the development of European or international standards for new emerging products and services and technologies. Development of such standards following consultation of relevant stakeholders, including those from science and industry, could have a positive impact. Activities in support of standardisation and interoperability, safety and pre-regulatory activities will be promoted.

1.1. *Information and Communication Technologies (ICT)*

1.1.1. Specific objective for ICT

In line with the flagship initiative 'Digital Agenda for Europe' ⁽¹⁾, the specific objective of ICT research and innovation (R&I) is to enable Europe to support, develop and exploit the opportunities brought by ICT progress for the benefits of its citizens, businesses and scientific communities.

⁽¹⁾ COM(2010)0245.

As the world's largest economy and representing the largest share of the world's ICT market, worth more than EUR 2 600 billion (EUR 2 600 000 000 000) in 2011, Europe should have legitimate ambitions for its businesses, governments, research and development centres and universities to lead European and global developments in ICT, to grow new business, and to invest more in ICT innovations.

By 2020, Europe's ICT sector should supply at least the equivalent of its share of the global ICT market, which was about one third in 2011. Europe should also grow innovative businesses in ICT so that one third of all business investment in ICT R&D in the Union, which amounted to more than EUR 35 billion per year in 2011, is made by companies created within the last two decades. This would require an increase in public investments in ICT R&D in ways that leverage private spending, towards the goal of amplifying investments in the next decade, and significantly more European poles and clusters of world-class excellence in ICT.

To master increasingly complex and multidisciplinary technology and business chains in ICT, partnering, risk-sharing and mobilisation of critical mass across the Union are needed. Union level action should help industry address a single market perspective and achieve economies of scale and scope. Collaboration around common, open technology platforms with spill-over and leverage effects will allow a wide range of stakeholders to benefit from new developments and create further innovations. Partnering at Union level also enables consensus building, establishes a visible focal point for international partners, and will support the development of standards and interoperable solutions both in the Union and worldwide.

1.1.2. Rationale and Union added value

ICT underpins innovation and competitiveness across a broad range of private and public markets and sectors, and enables scientific progress in all disciplines. Over the next decade, the transformative impact of digital technologies and ICT components, infrastructures and services will be increasingly visible in all areas of life. Computing, communication and data storage resources will continue to spread over the coming years. Vast amounts of information and data, including real-time, will be generated by sensors, machines and information-enhanced products, making action at a distance commonplace, enabling global deployment of business processes and sustainable production sites allowing the creation of a wide range of services and applications.

Many critical commercial and public services and all key processes of knowledge production in science, learning, business and the culture and creative sector as well as the public sector will be provided, and thus made more accessible, through ICT. ICT will provide the critical infrastructure for production and business processes, communication and transactions. ICT will also be indispensable in contributing to key societal challenges, as well as to societal processes such as community formation, consumer behaviour, political participation and public governance, for example by means of social media and collective-awareness platforms and tools. It is crucial to support and integrate research which takes a user-centred perspective in order to develop competitive solutions.

The Union support to ICT research and innovation makes a significant contribution to the development of the next generation technologies and applications as it makes up a large part of total spending on collaborative, mid-to-high risk R&I in Europe. Public investment in ICT research and innovation at Union level has been and remains essential to mobilise the critical mass leading to breakthroughs and to a wider uptake and better use of innovative solutions, products and services. It continues to play a central role in developing open platforms and technologies applicable across the Union, in testing and piloting innovations in real pan-European settings and in optimising resources when addressing Union competitiveness and tackling common societal challenges. Union support to ICT research and innovation is also enabling hi-tech SMEs to grow and capitalise on the size of Union-wide markets. It is strengthening collaboration and excellence amongst Union scientists and engineers, reinforcing synergies with and between national budgets, and acting as a focal point for collaboration with partners outside Europe.

Successive evaluations of ICT activities in the Seventh Framework Programme have shown that focused ICT research and innovation investment undertaken at Union level has been instrumental in building industrial leadership in areas like mobile communications and safety-critical ICT systems, and to address challenges like energy-efficiency, health, food security, transport or demographic change. Union investments in ICT research infrastructures have provided European researchers with the world's best research networking and computing facilities.

1.1.3. Broad lines of the activities

A number of activity lines shall target ICT industrial and technological leadership challenges and cover generic ICT research and innovation agendas, including notably:

- (a) A new generation of components and systems: engineering of advanced, embedded and energy- and resource-efficient components and systems;
- (b) Next generation computing: advanced and secure computing systems and technologies, including cloud computing;
- (c) Future Internet: software, hardware, infrastructures, technologies and services;
- (d) Content technologies and information management: ICT for digital content and for cultural and creative industries;
- (e) Advanced interfaces and robots: robotics and smart spaces;
- (f) Micro- and nanoelectronics and photonics: key enabling technologies related to micro- and nanoelectronics and to photonics covering also quantum technologies.

These six major activity lines are expected to cover the full range of needs, taking into account the competitiveness of European industry on a global scale. These would include industrial leadership in generic ICT-based solutions, products and services needed to tackle major societal challenges as well as application-driven ICT research and innovation agendas which will be supported together with the relevant societal challenge. In view of the ever increasing advancement of technology in all areas of life, the interaction between humans and technology will be important in this respect, and part of the application-driven ICT research mentioned above.

These six activity lines shall also include ICT specific research infrastructures such as living labs for experimentation, and infrastructures for underlying key enabling technologies and their integration in advanced products and innovative smart systems, including equipment, tools, support services, clean rooms and access to foundries for prototyping.

Horizon 2020 will support research and development of ICT systems in full respect of the fundamental rights and freedoms of natural persons and in particular their right to privacy.

1.2. *Nanotechnologies*

1.2.1. Specific objective for nanotechnologies

The specific objective of nanotechnologies research and innovation is to secure Union leadership in this high growth global market, by stimulating scientific and technological advancements and investment in nanotechnologies and their uptake in high added value, competitive products and services across a range of applications and sectors.

By 2020, nanotechnologies will be mainstreamed, that is seamlessly integrated with most technologies and applications, driven by consumer benefits, quality of life, healthcare, sustainable development and the strong industrial potential for achieving previously unavailable solutions for productivity and resource efficiency.

Europe must also set the global benchmark on safe and responsible nanotechnology deployment and governance ensuring both high societal and industrial returns combined with high standards of safety and sustainability.

Products using nanotechnologies represent a world market which Europe cannot afford to ignore. Market estimates of the value of products incorporating nanotechnology as the key component reach EUR 700 billion by 2015 and EUR 2 trillion by 2020, with a corresponding 2 and 6 million jobs respectively. Europe's nanotechnology companies should exploit this double digit market growth and be capable of capturing a market share at least equal to Europe's share of global research funding (i.e. a quarter) by 2020.

1.2.2. Rationale and Union added value

Nanotechnologies are a spectrum of evolving technologies with proven potential, having revolutionary impact for example in materials, ICT, transport mobility, life sciences, healthcare (including treatment), consumer goods and manufacturing once the research is translated into breakthrough, sustainable and competitive products and production processes.

Nanotechnologies have a critical role to play in addressing the challenges identified by the Europe 2020 strategy. The successful deployment of these key enabling technologies will contribute to the competitiveness of Union industry by enabling novel and improved products or more efficient processes and provide responses to today's and future societal challenges.

The global research funding for nanotechnologies has doubled from around EUR 6,5 billion in 2004 to around EUR 12,5 billion in 2008, with the Union accounting for about a quarter of this total. The Union has recognised research leadership in nanosciences and nanotechnologies with a projection of some 4 000 companies in the Union by 2015. This research leadership must be maintained and amplified and further translated into practical use and commercialisation.

Europe now needs to secure and build on its position in the global market by promoting wide scale cooperation in and across many different value chains and between different industrial sectors to realise the process scale-up of these technologies into safe, sustainable and viable commercial products. The issues of risk assessment and management as well as responsible governance are emerging as determining factors of future impact of nanotechnologies on society, the environment and the economy.

Thus, the focus of activities shall be on the widespread, responsible and sustainable application of nanotechnologies into the economy, to enable benefits with high societal and industrial impact. To ensure the potential opportunities, including setting-up new companies and generating new jobs, research should provide the necessary tools to allow for standardisation and regulation to be correctly implemented.

1.2.3. Broad lines of the activities

(a) Developing next generation nanomaterials, nanodevices and nanosystems

Aiming at fundamentally new products enabling sustainable solutions in a wide range of sectors.

(b) Ensuring the safe and sustainable development and application of nanotechnologies

Advancing scientific knowledge of the potential impact of nanotechnologies and nanosystems on health or on the environment, and providing tools for risk assessment and management along the entire life cycle, including standardisation issues.

(c) Developing the societal dimension of nanotechnology

Focusing on governance of nanotechnology for societal and environmental benefit.

(d) Efficient and sustainable synthesis and manufacturing of nanomaterials, components and systems

Focusing on new operations, smart integration of new and existing processes, including technology convergence, as well as up-scaling to achieve high precision large-scale production of products and flexible and multi-purpose plants that ensure the efficient transfer of knowledge into industrial innovation.

(e) Developing and standardisation of capacity-enhancing techniques, measuring methods and equipment

Focusing on the underpinning technologies supporting the development and market introduction of safe complex nanomaterials and nanosystems.

1.3. *Advanced materials*

1.3.1. Specific objective for advanced materials

The specific objective of advanced materials research and innovation is to develop materials with new functionalities and improved in-service performance, for more competitive and safe products that minimise the impact on the environment and the consumption of resources.

Materials are at the core of industrial innovation and are key enablers. Advanced materials with higher knowledge content, new functionalities and improved performance are indispensable for industrial competitiveness and sustainable development across a broad range of applications and sectors.

1.3.2. Rationale and Union added value

New advanced materials are needed in developing better performing and sustainable products and processes and for substituting scarce resources. Such materials are a part of the solution to our industrial and societal challenges, offering better performance in their use, lower resource and energy requirements, and sustainability during the entire life-cycle of the products.

Application-driven development often involves the design of totally new materials, with the ability to deliver planned in-service performances. Such materials are an important element in the supply chain of high value manufacturing. They are also the basis for progress in cross-cutting technology areas (for example healthcare technologies, biosciences, electronics and photonics) and in virtually all market sectors. The materials themselves represent a key step in increasing the value of products and their performance. The estimated value and impact of advanced materials is significant, with an annual growth rate of about 6 % and expected market size of the order of EUR 100 billion by 2015.

Materials shall be conceived according to a full life-cycle approach, from the supply of available materials to end of life (cradle to cradle), with innovative approaches to minimise the resources (including energy) required for their transformation or to minimise negative impacts for humans and the environment. Continuous use, recycling or secondary end-of-life utilisation of the materials shall also be covered, as well as related societal innovation, such as changes in consumer behaviour and new business models.

To accelerate progress, a multidisciplinary and convergent approach shall be fostered, involving chemistry, physics, engineering sciences, theoretical and computational modelling, biological sciences and increasingly creative industrial design.

Novel green innovation alliances and industrial symbiosis shall be fostered allowing industries to diversify and expand their business models, re-using their waste as a basis for new productions.

1.3.3. Broad lines of the activities

(a) Cross-cutting and enabling materials technologies

Research on materials by design, functional materials, multifunctional materials with higher knowledge content, new functionalities and improved performance, and structural materials for innovation in all industrial sectors, including the creative industries.

(b) Materials development and transformation

Research and development to ensure efficient, safe and sustainable development and scale-up to enable industrial manufacturing of future design-based products towards a "no-waste" management of materials in Europe.

(c) Management of materials components

Research and development for new and innovative techniques for materials and their components and systems.

(d) Materials for a sustainable, resource-efficient and low emission industry

Developing new products and applications, business models and responsible consumer behaviour that reduce energy demand and facilitate low-carbon production.

(e) Materials for creative industries, including heritage

Applying design and the development of converging technologies to create new business opportunities, including the preservation and restoration of materials with historical or cultural value, as well as novel materials.

(f) Metrology, characterisation, standardisation and quality control

Promoting technologies such as characterisation, non-destructive evaluation, continuous assessing and monitoring and predictive modelling of performance for progress and impact in materials science and engineering.

(g) Optimisation of the use of materials

Research and development to investigate substitution and alternatives to the use of materials and innovative business model approaches and identification of critical resources.

1.4. *Biotechnology*

1.4.1. Specific objective for biotechnology

The specific objective of biotechnology research and innovation is to develop competitive, sustainable, safe and innovative industrial products and processes and contribute as an innovation driver in a number of European sectors, like agriculture, forestry, food, energy, chemical and health as well as the knowledge-based bioeconomy.

A strong scientific, technological and innovation base in biotechnology will support European industries securing leadership in this key enabling technology. This position will be further strengthened by integrating the health and safety assessment, the economic and environmental impact of use of the technology and the management aspects of the overall and specific risks in the deployment of biotechnology.

1.4.2. Rationale and Union added value

Powered by the expansion of the knowledge of living systems, biotechnology is set to deliver a stream of new applications and to strengthen the Union's industrial base and its innovation capacity. Examples of the rising importance of biotechnology are in industrial applications including biopharmaceuticals, food and feed production and biochemicals, of which the market share of the latter is estimated to increase by up to 12 % to 20 % of chemical production by 2015. A number of the so-called twelve principles of Green Chemistry are also addressed by biotechnology, due to the selectivity and efficiency of biosystems. The possible economic burdens for Union enterprises can be reduced by harnessing the potential of biotechnology processes and bio-based products to reduce CO₂ emissions, estimated to range from between 1 to 2,5 billion tonnes CO₂ equivalent per year by 2030.

In Europe's biopharmaceutical sector, already some 20 % of the current medicines are derived from biotechnology, with up to 50 % of new medicines. Biotechnology will play a major role in the transition towards a bio-based economy by developing new industrial processes. Biotechnology also opens new avenues for the development of a sustainable agriculture, aquaculture and forestry and for exploiting the huge potential of marine resources for producing innovative industrial, health, energy, chemical and environmental applications. The emerging sector of marine (blue) biotechnology has been predicted to grow by 10 % a year.

Other key sources of innovation are at the interface between biotechnology and other enabling and converging technologies, in particular nanotechnologies and ICT, with applications such as sensing and diagnosing.

1.4.3. Broad lines of the activities

(a) Boosting cutting-edge biotechnologies as a future innovation driver

Development of emerging technology areas such as synthetic biology, bioinformatics and systems biology, which hold great promise for innovative products and technologies and completely novel applications.

(b) Biotechnology-based industrial products and processes

Developing industrial biotechnology and industrial scale bio-process design for competitive industrial products and sustainable processes (e.g. chemical, health, mining, energy, pulp and paper, fibre-based products and wood, textile, starch, food processing) and its environmental and health dimensions, including clean-up operations.

(c) Innovative and competitive platform technologies

Development of platform technologies (e.g. genomics, meta-genomics, proteomics, metabolomics, molecular tools, expression systems, phenotyping platforms and cell-based platforms) to enhance leadership and competitive advantage in a wide number of sectors that have economic impacts.

1.5. *Advanced manufacturing and processing*

1.5.1. Specific objective

The specific objective of advanced manufacturing and processing research and innovation is to transform today's manufacturing enterprises, systems and processes. This will be done *inter alia* by leveraging key enabling technologies in order to achieve more knowledge-intensive, sustainable, resource- and energy-efficient trans-sectoral manufacturing and processing technologies, resulting in more innovative products, processes and services. Enabling new, sustainable products, processes and services and their competitive deployment, as well as advanced manufacturing and processing is also essential for achieving the objectives of the priority 'Societal challenges'.

1.5.2. Rationale and Union added value

The manufacturing sector is of high importance to the European economy, contributing to around 17 % of GDP and accounting for some 22 million jobs in the Union in 2007. With the lowering of economic barriers to trade and the enabling effect of communications technology, manufacturing is subject to strong competition and has been gravitating to countries of lowest overall cost. The European approach to manufacturing therefore has to change radically to remain globally competitive, and Horizon 2020 can help bring together all the relevant stakeholders to achieve this.

Europe needs to increase investment at Union level to maintain European leadership and competence in manufacturing technologies and make the transition to high-value, knowledge-intensive goods, creating the conditions and assets for sustainable production and provision of lifetime service around a manufactured product. Resource intensive manufacturing and process industries need to further mobilise resources and knowledge at Union level and increase the investment in research, development and innovation to enable further progress towards a competitive low-carbon, resource-efficient and sustainable economy and to comply with the agreed Union-wide reductions in greenhouse gas emissions by 2050 for industrial sectors ⁽¹⁾.

With strong Union policies, Europe would grow its existing industries and nurture the emerging industries of the future. The estimated value and impact of the sector of advanced manufacturing systems is significant, with an expected market size around EUR 150 billion by 2015 and compound annual growth rate of about 5 %.

It is crucial to retain knowledge and competence in order to keep manufacturing and processing capacity in Europe. The emphasis of the research and innovation activities shall be on sustainable and safe manufacturing and processing, introducing the necessary technical innovation and customer-orientation to produce high knowledge content products and services with low material and energy consumption.

Europe also needs to transfer these enabling technologies and knowledge to other productive sectors, such as construction, which is a major source of greenhouse gases with building activities accounting for around 40 % of all energy consumption in Europe, giving rise to 36 % of the CO₂ emissions. The construction sector, generating 10 % of GDP and providing some 16 million jobs in Europe in 3 million enterprises, of which 95 % are SMEs, needs to adopt innovative materials and manufacturing approaches to mitigate its environmental impact.

1.5.3. Broad lines of the activities

(a) Technologies for Factories of the Future

Promoting sustainable industrial growth by facilitating a strategic shift in Europe from cost-based manufacturing to an approach based on resource efficiency and the creation of high added value products and ICT-enabled intelligent and high performance manufacturing in an integrated system.

(b) Technologies enabling energy-efficient systems and energy-efficient buildings with a low environmental impact

Reducing energy consumption and CO₂ emissions by the research, development and deployment of sustainable construction technologies and systems, addressing the whole value chain as well as reducing the overall environmental impact of buildings.

⁽¹⁾ COM(2011)0112.

(c) Sustainable, resource-efficient and low-carbon technologies in energy-intensive process industries

Increasing the competitiveness of process industries, by drastically improving resource and energy efficiencies and reducing the environmental impact of such industrial activities through the whole value chain, promoting the adoption of low-carbon technologies, more sustainable industrial processes and, where applicable, the integration of renewable energy sources.

(d) New sustainable business models

Deriving concepts and methodologies for adaptive, knowledge-based business models in customised approaches, including alternative resource-productive approaches.

1.6. *Space*

1.6.1. Specific objective for space

The specific objective of space research and innovation is to foster a cost-effective competitive and innovative space industry (including SMEs) and research community to develop and exploit space infrastructure to meet future Union policy and societal needs.

Strengthening the European public and private space sector by boosting space research and innovation is vital to maintain and safeguard Europe's capability to use space in support of Union policies, international strategic interests and competitiveness amongst established and emerging space faring nations. Action at Union level will be carried out in conjunction with space research activities of the Member States and the European Space Agency (ESA), aiming at building up complementarity amongst different actors.

1.6.2. Rationale and Union added value

Space is an important, but frequently invisible enabler of diverse services and products crucial to modern day society, such as navigation and communication, as well as weather forecasts and geographic information derived from Earth observation by satellites. Policy formulation and implementation at European, national and regional level increasingly depend on space-derived information. The global space sector is rapidly growing and expanding into new regions (e.g. China, South America and Africa). European industry is at present a considerable exporter of first-class satellites for commercial and scientific purposes. Increasing global competition is challenging Europe's position in this area.

Thus Europe has an interest in ensuring that its industry continues to thrive in this fiercely competitive market. In addition, data from European science satellites and probes have resulted in some of the most significant scientific breakthroughs in the last decades in Earth sciences, fundamental physics, astronomy and planetology. In addition, innovative space technologies, e.g. robotics, have contributed to the progress of knowledge and technology in Europe. With this unique capacity, the European space sector has a critical role to play in addressing the challenges identified by the Europe 2020 strategy.

Research, technology development and innovation underpin capacities in space which are vital to European society. While the United States spends around 25 % of its space budget on R&D, the Union spends less than 10 %. Moreover, space research in the Union is addressed in the national programmes of Member States, ESA programmes and the Union Framework Programmes for research.

To maintain Europe's technological and competitive edge and to capitalise on investments, Union level action, having regard to Article 4(3) and Article 189 TFEU, is needed in conjunction with the space research activities of the Member States and the ESA, which has managed industrial satellite development and deep space missions on an intergovernmental basis for the ESA Member States since 1975. Union level action is also needed to promote the participation of the best researchers from all Member States, and to lower the barriers for collaborative space research projects across national borders.

In addition, the information provided by European satellites will offer an increasing potential for further development of innovative satellite-based downstream services. This is a typical activity sector for SMEs and should be supported by research and innovation measures in order to reap the full benefits of this opportunity, and especially of the considerable investments made on the two Union programmes Galileo and Copernicus.

Space naturally transcends terrestrial boundaries, providing a unique vantage point of global dimension, thus giving rise to large-scale projects which are carried out in international co-operation. To play a significant role in such international space activities in the next decades, both a common European space policy and European level space research and innovation activities are indispensable.

Space research and innovation under Horizon 2020 aligns with the Union space policy priorities and the needs of the European operational programmes as they continue to be defined by the Council and the Commission ⁽¹⁾.

European Space infrastructure such as the Copernicus and Galileo programmes are a strategic investment, and the development of innovative downstream applications is necessary. To this end, the application of space technologies shall be supported through the respective specific objectives of the priority 'Societal challenges', where appropriate, with the aim of securing socio-economic benefits as well as return on investment and European leadership in downstream applications.

1.6.3. Broad lines of the activities

(a) Enabling European competitiveness, non-dependence and innovation of the European space sector

This entails safeguarding and further developing a competitive, sustainable and entrepreneurial space industry in combination with a world-class space research community to maintain and strengthen European leadership and non-dependence in space systems to foster innovation in the space sector, and to enable space-based terrestrial innovation, for example by using remote sensing and navigation data.

(b) Enabling advances in space technologies

This aims at developing advanced and enabling space technologies and operational concepts from idea to demonstration in space. This includes technologies supporting access to space, technologies for the protection of space assets from threats such as debris and solar flares, as well as satellite telecommunication, navigation and remote sensing. The development and application of advanced space technologies requires the continuous education and training of highly skilled engineers and scientists as well as strong links between them and the users of space applications.

(c) Enabling exploitation of space data

A considerably increased exploitation of data from European satellites (scientific, public or commercial) can be achieved if further effort is made for the processing, archiving, validation, standardisation and sustainable availability of space data as well as for supporting the development of new information products and services resulting from those data, having regard to Article 189 TFEU, including innovations in data handling, dissemination and interoperability, in particular promotion of access to and exchange of Earth science data and metadata. These activities can also ensure a higher return on investment of space infrastructure and contribute to tackling societal challenges, in particular if coordinated in a global effort such as through the Global Earth Observation System of Systems (GEOSS), namely by fully exploiting the Copernicus programme as its main European contribution, the European satellite navigation programme Galileo or the Intergovernmental Panel on Climate Change (IPCC) for climate change issues. A fast introduction of these innovations into the relevant application and decision-making processes will be supported. This also includes the exploitation of data for further scientific investigation.

(d) Enabling European research in support of international space partnerships

Space undertakings have a fundamentally global character. This is particularly clear for activities such as Space Situational Awareness (SSA), and many space science and exploration projects. The development of cutting edge space technology is increasingly taking place within such international partnerships. Ensuring access to these constitutes an important success factor for European researchers and industry. The definition and implementation of long-term roadmaps and the coordination with international partners are essential to this objective.

2. Access to risk finance

2.1. Specific objective

The specific objective is to help address market deficiencies in accessing risk finance for research and innovation.

⁽¹⁾ COM(2011)0152.

The investment situation in the R&I domain is dire, particularly for innovative SMEs and mid-caps with a high potential for growth. There are several major market gaps in the provision of finance, as the innovations required to achieve policy goals are proving too risky, typically, for the market to bear and therefore the wider benefits to society are not fully captured.

A facility for debt ('Debt facility') and a facility for equity ('Equity facility') will help overcome such problems by improving the financing and risk profiles of the R&I activities concerned. This, in turn, will ease access by firms and other beneficiaries to loans, guarantees and other forms of risk finance; promote early-stage investment and the development of existing and new venture capital funds; improve knowledge transfer and the market in intellectual property; attract funds to the venture capital market; and, overall, help catalyse the passage from the conception, development and demonstration of new products and services to their commercialisation.

The overall effect will be to increase the willingness of the private sector to invest in R&I and hence contribute to reaching a key Europe 2020 target: 3 % of Union GDP invested in R&D by the end of the decade with two-thirds contributed by the private sector. The use of financial instruments will also help achieve the R&I objectives of all sectors and policy areas crucial for tackling the societal challenges, for enhancing competitiveness, and for supporting sustainable, inclusive growth and the provision of environmental and other public goods.

2.2. *Rationale and Union added value*

A Union-level Debt facility for R&I is needed to increase the likelihood that loans and guarantees are made and R&I policy objectives achieved. The current gap in the market between the demand for and supply of loans and guarantees for risky R&I investments, addressed by the current Risk-Sharing Finance Facility (RSFF), is likely to persist, with commercial banks remaining largely absent from higher-risk lending. Demand for RSFF loan finance has been high since the launch of the facility in mid-2007: in its first phase (2007-2010), its take-up exceeded initial expectations by more than 50 % in terms of active loan approvals (EUR 7,6 billion versus a forecast EUR 5 billion).

Furthermore, banks typically lack the ability to value knowledge assets, such as intellectual property, and therefore are often unwilling to invest in knowledge-based companies. The consequence is that many established innovative companies – both large and small – cannot obtain loans for higher-risk R&I activities. In the design and implementation of its facilit(y)(ies), which will be carried out in partnership with one or several entrusted entities in compliance with Regulation (EU, Euratom) No 966/2012, the Commission will ensure that appropriate levels and forms of technological and financial risks will be taken into account, in order to meet the identified needs.

These market gaps stem, at root, from uncertainties, information asymmetries and the high costs of attempting to address these issues: recently established firms have too short a track record to satisfy potential lenders, even established firms often cannot provide enough information, and at the start of an R&I investment it is not at all certain whether the efforts undertaken will actually result in a successful innovation.

Additionally, enterprises at the concept development stage or working in emerging areas typically lack sufficient collateral. Another disincentive is that even if R&I activities give rise to a commercial product or process, it is not at all certain that the company that has made the effort will be able to exclusively appropriate the benefits deriving from it.

In terms of Union added value, the Debt facility will help remedy market deficiencies that prevent the private sector from investing in R&I at an optimum level. Its implementation will enable the pooling of a critical mass of resources from the Union budget and, on a risk-sharing basis, from the financial institution(s) entrusted with its implementation. It will stimulate firms to invest more of their own money in R&I than they would otherwise have done. In addition, the Debt facility will help organisations, both public and private, to reduce the risks of undertaking the pre-commercial procurement or procurement of innovative products and services.

A Union-level Equity facility for R&I is needed to help improve the availability of equity finance for early and growth-stage investments and to boost the development of the Union venture capital market. During the technology transfer and start-up phase, new companies face a 'valley of death' where public research grants stop and it is not possible to attract private finance. Public support aiming to leverage private seed and start-up funds to fill this gap is currently too fragmented and intermittent, or its management lacks the necessary expertise. Furthermore, most venture capital funds in Europe are too small to support the continued growth of innovative companies and do not have the critical mass to specialise and operate transnationally.

The consequences are serious. Before the financial crisis, the amount invested in SMEs by European venture capital funds was about EUR 7 billion a year, while figures for 2009 and 2010 were within the EUR 3-4 billion range. Reduced funding for venture capital has affected the number of start-ups targeted by venture capital funds: in 2007, some 3 000 SMEs received venture capital funding, compared to only around 2 500 in 2010.

In terms of Union added value, the Equity facility for R&I will complement national and regional schemes that cannot cater for cross-border investments in R&I. The early-stage deals will also have a demonstration effect that can benefit public and private investors across Europe. For the growth phase, only at European level is it possible to achieve the necessary scale and the strong participation of private investors that are essential to the functioning of a self-sustaining venture capital market.

The Debt and Equity facilities, supported by a set of accompanying measures, will support the achievement of Horizon 2020 policy objectives. To this end, they will be dedicated to consolidating and raising the quality of Europe's science base; promoting research and innovation with a business-driven agenda; and addressing societal challenges, with a focus on activities such as piloting, demonstration, test-beds and market uptake. Specific support actions such as information and coaching activities for SMEs should be provided. Regional authorities, SMEs associations, chambers of commerce and relevant financial intermediaries may be consulted, where appropriate, in relation to the programming and implementation of these activities.

In addition, they will help tackle the R&I objectives of other programmes and policy areas, such as the Common Agricultural Policy, climate action (transition to a low-carbon economy and adaptation to climate change), and the Common Fisheries Policy. Complementarities with national and regional financial instruments will be developed in the context of the Common Strategic Framework for Cohesion Policy 2014-2020, where an increased role for financial instruments is foreseen.

The design of the Debt and Equity facilities takes account of the need to address the specific market deficiencies, and the characteristics (such as degree of dynamism and rate of company creation) and financing requirements of these and other areas without creating market distortions. The use of financial instruments must have a clear European added value and should provide leverage and function as a complement to national instruments. Budgetary allocations between the instruments may be adapted during the course of Horizon 2020 in response to changing economic conditions.

The Equity facility and the SME window of the Debt facility will be implemented as part of two Union financial instruments that provide equity and debt to support SMEs' R&I and growth, in conjunction with the equity and debt facilities under COSME. Complementarity between Horizon 2020 and COSME will be ensured.

2.3. *Broad lines of the activities*

- (a) The Debt facility providing debt finance for R&I: 'Union loan and guarantee service for research and innovation'

The goal is to improve access to debt financing – loans, guarantees, counter-guarantees and other forms of debt and risk finance – for public and private entities and public-private partnerships engaged in research and innovation activities requiring risky investments in order to come to fruition. The focus shall be on supporting research and innovation with a high potential for excellence.

Given that one of the objectives of Horizon 2020 is to contribute to narrowing the gap between R&D and innovation, helping to bring new or improved products and services to the market, and taking into account the critical role that the proof-of-concept stage plays in the knowledge transfer process, mechanisms may be introduced enabling financing for the proof-of-concept stages that are necessary in order to validate the importance, relevance and future innovatory impact of the research results or invention involved in the transfer.

The target final beneficiaries shall potentially be legal entities of all sizes that can borrow and repay money and, in particular, SMEs with the potential to carry out innovation and grow rapidly; mid-caps and large firms; universities and research institutions; research infrastructures and innovation infrastructures; public-private partnerships; and special-purpose vehicles or projects.

The funding of the Debt facility shall have two main components:

- (1) Demand-driven, providing loans and guarantees on a first-come, first-served basis, with specific support for beneficiaries such as SMEs and mid-caps. This component shall respond to the steady and continuing growth seen in the volume of RSFF lending, which is demand-led. Under the SME window, activities shall be supported that aim to improve access to finance for SMEs and other entities that are R&D- and/or innovation-driven. This could include support at phase 3 of the SME instrument, subject to the level of demand.
 - (2) Targeted, focusing on policies and key sectors crucial for tackling societal challenges, enhancing industrial leadership and competitiveness, supporting sustainable, low-carbon, inclusive growth, and providing environmental and other public goods. This component shall help the Union address research and innovation aspects of sectoral policy objectives.
- (b) The Equity facility providing equity finance for R&I: 'Union equity instruments for research and innovation'

The goal is to contribute to overcoming the deficiencies of the European venture capital market and provide equity and quasi-equity to cover the development and financing needs of innovating enterprises from the seed stage through to growth and expansion. The focus shall be on supporting the objectives of Horizon 2020 and related policies.

The target final beneficiaries shall be potentially enterprises of all sizes undertaking or embarking on innovation activities, with a particular focus on innovative SMEs and mid-caps.

The Equity facility will focus on early-stage venture capital funds and funds-of-funds providing venture capital and quasi-equity (including mezzanine capital) to individual portfolio enterprises. The facility will also have the possibility to make expansion and growth-stage investments in conjunction with the Equity Facility for Growth under COSME, to ensure a continuum of support during the start-up and development of companies.

The Equity facility, which will be primarily demand-driven, shall use a portfolio approach, where venture capital funds and other comparable intermediaries select the firms to be invested in.

Earmarking may be applied to help achieve particular policy goals, building on the positive experience in the Competitiveness and Innovation Framework Programme (2007 to 2013) with earmarking for eco-innovation, for example for achieving goals related to the identified societal challenges.

The start-up window, supporting the seed and early stages, shall enable equity investments in, amongst others, knowledge-transfer organisations and similar bodies through support to technology transfer (including the transfer of research results and inventions stemming from the sphere of public research to the productive sector, for example through proof-of-concept), seed capital funds, cross-border seed and early-stage funds, business angel co-investment vehicles, intellectual property assets, platforms for the exchange and trading of intellectual property rights, and early-stage venture capital funds and funds-of-funds operating across borders and investing in venture capital funds. This could include support at phase 3 of the SME instrument, subject to the level of demand.

The growth window shall make expansion and growth-stage investments in conjunction with the Equity Facility for Growth under COSME, including investments in private and public sector funds-of-funds operating across borders and investing in venture capital funds, most of which will have a thematic focus that supports the goals of the Europe 2020 strategy.

3. Innovation In SMEs

3.1. Specific objective

The specific objective is to stimulate sustainable economic growth by means of increasing the levels of innovation in SMEs, covering their different innovation needs over the whole innovation cycle for all types of innovation, thereby creating more fast-growing, internationally active SMEs.

Considering the central role of SMEs in Europe's economy, research and innovation in SMEs will play a crucial role in increasing competitiveness, boosting economic growth and job creation and thus in achieving the objectives of the Europe 2020 strategy and notably its flagship initiative 'Innovation Union'.

However, SMEs have – despite their important economic and employment share and significant innovation potential – several types of problems to become more innovative and more competitive, including shortage of financial resources and access to finance, shortage in skills in innovation management, weaknesses in networking and cooperation with external parties, and insufficient use of public procurement to foster innovation in SMEs. Although Europe produces a similar number of start-up companies to the United States, European SMEs are finding it much harder to grow into large companies than their US counterparts. The internationalised business environment with increasingly interlinked value chains puts further pressure on them. SMEs need to enhance their research and innovation capacity. They need to generate, take up and commercialise new knowledge and business ideas faster and to a greater extent to compete successfully on fast evolving global markets. The challenge is to stimulate more innovation in SMEs, thereby enhancing their competitiveness, sustainability and growth.

The proposed actions aim to complement national and regional business innovation policies and programmes, to foster cooperation between SMEs, including transnational cooperation, clusters and other innovation-relevant actors in Europe, to bridge the gap between R&D and successful market uptake, to provide a more business innovation friendly environment, including demand-side measures and measures geared to boosting the transfer of knowledge, and to support taking into account the changing nature of innovation processes, new technologies, markets and business models.

Strong links with industry-specific Union policies, notably COSME and the Cohesion Policy Funds, will be established to ensure synergies and a coherent approach.

3.2. *Rationale and Union added value*

SMEs are key drivers of innovation due to their ability to quickly and efficiently transform new ideas in successful businesses. They serve as important conduits of knowledge spill-over bringing research results to the market. SMEs have a key role to play in technology and knowledge transfer processes, contributing to the market transfer of innovations stemming from the research carried out in universities, research bodies and research performing companies. The last twenty years have shown that entire sectors have been renewed and new industries created driven by innovative SMEs. Fast growing enterprises are crucial for the development of emerging industries and for the acceleration of the structural changes that Europe needs to become a knowledge-based and sustainable economy with sustained growth and high quality jobs.

SMEs can be found in all sectors of the economy. They form a more important part of the European economy than of other regions such as the United States. All types of SMEs can innovate. They need to be encouraged and supported to invest in research and innovation and to enhance their capacity to manage innovation processes. In doing so they should be able to draw on the full innovative potential of the internal market and the ERA so as to create new business opportunities in Europe and beyond and to contribute to find solutions to key societal challenges.

Participation in Union research and innovation strengthens the R&D and technology capability of SMEs, increases their capacity to generate, absorb and use new knowledge, enhances the economic exploitation of new solutions, boosts innovation in products, services and business models, promotes business activities in larger markets and internationalises the knowledge networks of SMEs. SMEs that have a good innovation management in place, thereby often relying on external expertise and skills, outperform others.

Cross-border collaborations are an important element in the innovation strategy of SMEs to overcome some of their size-related problems, such as access to technological and scientific competences and new markets. They contribute to turn ideas into profit and company growth and in return to increase private investment in research and innovation.

Regional and national programmes for research and innovation, often backed by European cohesion policy, play an essential role in promoting SMEs. In particular, Cohesion Policy Funds have a key role to play through building capacity and providing a stairway to excellence for SMEs in order to develop excellent projects that may compete for funding under Horizon 2020. Nevertheless, only a few national and regional programmes provide funding for transnational research and innovation activities carried out by SMEs, the Union-wide diffusion

and uptake of innovative solutions or cross-border innovation support services. The challenge is to provide SMEs with thematically open support to realise international projects in line with companies' innovation strategies. Actions at Union level are therefore necessary to complement activities undertaken at national and regional level, to enhance their impact and to open up the research and innovation support systems.

3.3. *Broad lines of the activities*

(a) Mainstreaming SME support especially through a dedicated instrument

SMEs shall be supported across Horizon 2020. For this purpose, to participate in Horizon 2020, better conditions for SMEs shall be established. In addition, a dedicated SME instrument shall provide staged and seamless support covering the whole innovation cycle. The SME instrument shall be targeted at all types of innovative SMEs showing a strong ambition to develop, grow and internationalise. It shall be provided for all types of innovation, including service, non-technological and social innovations, given each activity has a clear European added value. The aim is to develop and capitalise on the innovation potential of SMEs by filling the gap in funding for early stage high-risk research and innovation, stimulating innovations and increasing private-sector commercialisation of research results.

The instrument will operate under a single centralised management system, light administrative regime and a single entry point. It shall be implemented primarily in a bottom-up manner through a continuously open call.

All of the specific objectives of the priority 'Societal challenges', and the specific objective 'Leadership in enabling and industrial technologies' will apply the dedicated SME instrument and allocate an amount for this.

(b) Support for research-intensive SMEs

The goal is to promote transnational market-oriented innovation of R&D performing SMEs. A specific action shall target research-intensive SMEs in any sectors that show the capability to commercially exploit the project results. This action will be built on the Eurostars Programme.

(c) Enhancing the innovation capacity of SMEs

Transnational activities assisting the implementation of and complementing the SME specific measures across Horizon 2020 shall be supported, notably to enhance the innovation capacity of SMEs. These activities shall be coordinated with similar national measures when appropriate. Close cooperation with the National Contact Point (NCP) Network and the Enterprise Europe Network (EEN) is envisaged.

(d) Supporting market-driven innovation

Transnational market-driven innovation to improve the framework conditions for innovation shall be supported, and the specific barriers preventing, in particular, the growth of innovative SMEs shall be tackled.

PART III

SOCIETAL CHALLENGES

1. Health, demographic change and well-being

1.1. *Specific objective*

The specific objective is to improve the lifelong health and well-being of all.

Lifelong health and well-being for all - children, adults and older people - high-quality, economically sustainable and innovative health and care systems, as part of welfare systems, and opportunities for new jobs and growth are the aims of the support provided to research and innovation in response to this challenge, and they will make a major contribution to the Europe 2020 strategy.

The cost of Union health and social care systems is rising, with care and prevention measures in all ages increasingly expensive. The number of Europeans aged over 65 is expected to nearly double from 85 million in 2008 to 151 million by 2060, and the number of those over 80 is expected to rise from 22 to 61 million in the same period. Reducing or containing these costs so that they do not become unsustainable depends partly on improving the lifelong health and well-being of all and therefore on the effective prevention, treatment and management of disease and disability.

Chronic conditions and diseases are major causes of disability, ill-health, health-related retirement and premature death, and present considerable social and economic costs.

In the Union, cardiovascular disease annually accounts for more than 2 million deaths and costs the economy more than EUR 192 billion while cancer accounts for a quarter of all deaths and is the number one cause of death for people aged 45-64. Over 27 million people in the Union suffer from diabetes and over 120 million from rheumatic and musculoskeletal conditions. Rare diseases remain a major challenge, affecting approximately 30 million people across Europe. The total cost of brain disorders (including, but not limited to those affecting mental health, including depression) has been estimated at EUR 800 billion. It is estimated that mental disorders alone affect 165 million people in the Union, at a cost of EUR 118 billion. These sums are expected to rise significantly, largely as a result of Europe's ageing population and the associated increases in neurodegenerative diseases. Environmental, occupational, life-style and socio-economic factors are relevant in several of these conditions with up to one third of the global disease burden estimated to be related to these.

Infectious diseases (e.g. HIV/AIDS, tuberculosis and malaria), are a global concern, accounting for 41 % of the 1,5 billion disability adjusted life years worldwide, with 8 % of these in Europe. Poverty-related and neglected diseases are also a global concern. Emerging epidemics, re-emerging infectious diseases (including water-related diseases) and the threat of increasing anti-microbial resistance must also be prepared for. Increased risks for animal-borne diseases should be considered.

Meanwhile, drug and vaccine development processes are becoming more expensive and less effective. Efforts to increase the success of drug and vaccine development include alternative methods to replace classical safety and effectiveness testing. Persistent health inequalities and the needs of specific population groups (e.g. those suffering from rare diseases) must be addressed, and access to effective and competent health and care systems must be ensured for all Europeans irrespective of their age or background.

Other factors, such as nutrition, physical activity, wealth, inclusion, engagement, social capital and work, also affect health and well-being, and a holistic approach must be taken.

Due to higher life expectancy the age and population structure in Europe will change. Therefore, research furthering lifelong health, active ageing and well-being for all will be a cornerstone of the successful adaptation of societies to demographic change.

1.2. *Rationale and Union added value*

Disease and disability are not stopped by national borders. An appropriate European level research, development and innovation effort, in cooperation with third countries and with the involvement of all stakeholders, including patients and end-users, can and should make a crucial contribution to addressing these global challenges, thereby working to achieve the United Nations' Millennium Development Goals, deliver better health and well-being for all, and position Europe as a leader in the rapidly expanding global markets for health and well-being innovations.

The response depends on excellence in research to improve our fundamental understanding of the determinants of health, disease, disability, healthy employment conditions, development and ageing (including of life expectancy), and on the seamless and widespread translation of the resulting and existing knowledge into innovative, scalable, effective, accessible and safe products, strategies, interventions and services. Furthermore, the pertinence of these challenges across Europe and in many cases, globally, demands a response characterised by long-term and coordinated support for co-operation between excellent, multidisciplinary and multi-sector teams. It is also necessary to address the challenge from the perspective of the social and economic sciences and humanities.

Similarly, the complexity of the challenge and the interdependency of its components demand a European level response. Many approaches, tools and technologies have applicability across many of the research and innovation areas of this challenge and are best supported at Union level. These include understanding the molecular basis of disease, the identification of innovative therapeutic strategies and novel model systems, the multidisciplinary application of knowledge in physics, chemistry and systems biology, the development of long-term cohorts and the conduct of clinical trials (including focus on the development and effects of medicines in all age groups), the clinical use of "-omics", systems biomedicine and the development of ICT and their applications in healthcare practice, notably e-health. The requirements of specific populations are also best addressed in an integrated manner, for example in the development of stratified and/or personalised medicine, in the treatment of rare diseases, and in providing assisted and independent living solutions.

To maximise the impact of Union level actions, support will be provided to the full spectrum of research, development and innovation activities from basic research through translation of knowledge on disease to new therapeutics, to large trials, piloting and demonstration actions, by mobilising private investment; to public and pre-commercial procurement for new products, services and scalable solutions, which are, when necessary, interoperable and supported by defined standards and/or common guidelines. This coordinated, European effort will increase the scientific capabilities in health research and contribute to the ongoing development of the ERA. It will also interface, as and when appropriate, with activities developed in the context of the Health for Growth Programme, the Joint Programming Initiatives, including "Neurodegenerative Disease Research", "A Healthy Diet for a Healthy Life", "Antimicrobial resistance" and "More Years, Better Lives", and the European Innovation Partnership on Active and Healthy Ageing.

The Scientific Panel for Health will be a science-led stakeholder platform which elaborates scientific input concerning this societal challenge. It will provide a coherent scientific focused analysis of research and innovation bottlenecks and opportunities related to this societal challenge, contribute to the definition of its research and innovation priorities and encourage Union-wide scientific participation in it. Through active cooperation with stakeholders, it will help to build capabilities and to foster knowledge sharing and stronger collaboration across the Union in this field.

1.3. *Broad lines of the activities*

Effective health promotion, supported by a robust evidence base, prevents disease, contributes to well-being and is cost effective. Promotion of health, active ageing, well-being and disease prevention also depend on an understanding of the determinants of health, on effective preventive tools on effective health and disease surveillance and preparedness, and on effective screening programmes. Effective health promotion is also facilitated by the provision of better information to citizens which encourages responsible health choices.

Successful efforts to prevent, detect early, manage, treat and cure disease, disability, frailty and reduced functionality are underpinned by the fundamental understanding of their determinants and causes, processes and impacts, as well as factors underlying good health and well-being. Improved understanding of health and disease will demand close linkage between fundamental, clinical, epidemiological and socio-economic research. Effective sharing of data, standardised data processing and the linkage of these data with large-scale cohort studies is also essential, as is the translation of research findings into the clinic, in particular through the conduct of clinical trials, which should address all age groups to ensure that medicines are adapted to their use.

The resurgence of old infectious diseases, including tuberculosis, and the increased prevalence of vaccine-preventable diseases further underlines the need for a comprehensive approach towards poverty-related and neglected diseases. Likewise, the growing problem of anti-microbial resistance demands a similarly comprehensive approach.

Personalised medicine should be developed in order to suit preventive and therapeutic approaches to patient requirements, and must be underpinned by the early detection of disease. It is a societal challenge to adjust to the further demands on health and care sectors due to the ageing population. If effective health and care is to be maintained for all ages, efforts are required to improve decision making in prevention and in treatment provision, to identify and support the dissemination of best practice in the health and care sectors, and to support integrated care. A better understanding of ageing processes and the prevention of age-related illnesses are the basis for keeping European citizens healthy and active throughout the course of their lives. Similarly important is the wide uptake of technological, organisational and social innovations empowering in particular older persons, persons with chronic diseases as well as disabled persons to remain active and independent. Doing so will contribute to increasing their physical, social, and mental well-being and lengthening the duration thereof.

All of these activities shall be undertaken in such a way as to provide support throughout the research and innovation cycle, strengthening the competitiveness of the European based industries and development of new

market opportunities. Emphasis will also be placed on engaging all health stakeholders – including patients and patient organisations, and health and care providers – in order to develop a research and innovation agenda that actively involves citizens and reflects their needs and expectations.

Specific activities shall include: understanding the determinants of health (including nutrition, physical activity and gender, and environmental, socio-economic, occupational and climate-related factors); improving health promotion and disease prevention; understanding disease and improving diagnosis and prognosis; developing effective prevention and screening programmes and improving the assessment of disease susceptibility; improving the surveillance of infectious diseases and preparedness for combating epidemics and emerging diseases; developing new and better preventive and therapeutic vaccines and drugs; using in-silico medicine for improving disease management and prediction; developing regenerative medicine and adapted treatments, and treating disease, including palliative medicine; transferring knowledge to clinical practice and scalable innovation actions; improving health information and better collection and use of health cohort and administrative data; standardised data analysis and techniques; active ageing, and independent and assisted living; individual awareness and empowerment for self-management of health; promotion of integrated care, including psychosocial aspects; improving scientific tools and methods to support policy making and regulatory needs; optimising the efficiency and effectiveness of healthcare provision; and reducing health disparities and inequalities by evidence-based decision making and dissemination of best practice and by innovative technologies and approaches. Active involvement of healthcare providers must be encouraged in order to secure rapid take-up and implementation of results.

2. **Food security, sustainable agriculture and forestry, marine, maritime and inland water research, and the bioeconomy**

2.1. *Specific objective*

The specific objective is to secure sufficient supplies of safe, healthy and high quality food and other bio-based products, by developing productive, sustainable and resource-efficient primary production systems, fostering related ecosystem services and the recovery of biological diversity, alongside competitive and low-carbon supply, processing and marketing chains. This will accelerate the transition to a sustainable European bioeconomy, bridging the gap between new technologies and their implementation.

Over the coming decades, Europe will be challenged by increased competition for limited and finite natural resources, by the effects of climate change, in particular on primary production systems (agriculture including animal husbandry and horticulture, forestry, fisheries and aquaculture), and by the need to provide a sustainable, safe and secure food supply for the European and an increasing global population. A 70 % increase of the world food supply is estimated to be required to feed the 9 billion global population by 2050. Agriculture accounts for about 10 % of Union greenhouse gas emissions, and while declining in Europe, global emissions from agriculture are projected to increase up to 20 % by 2030. Furthermore, Europe will need to ensure sufficient and sustainably produced supplies of raw materials, energy and industrial products, under conditions of decreasing fossil carbon resources (oil and liquid gas production expected to decrease by about 60 % by 2050), while maintaining its competitiveness. Biowaste (estimated at up to 138 million tonnes per year in the Union, of which up to 40 % is land-filled) represents a huge problem and cost, despite its high potential added value.

For example, an estimated 30 % of all food produced in developed countries is discarded. Major changes are needed to reduce this amount by 50 % in the Union by 2030 ⁽¹⁾. In addition, national borders are irrelevant in the entry and spread of animal and plant pests and diseases, including zoonotic diseases, and food borne pathogens. While effective national prevention measures are needed, action at Union level is essential for ultimate control and the effective running of the single market. The challenge is complex, affects a broad range of interconnected sectors and requires a holistic and systemic approach.

⁽¹⁾ COM (2011)0112.

More and more biological resources are needed to satisfy market demand for a secure and healthy food supply, biomaterials, biofuels and bio-based products, ranging from consumer products to bulk chemicals. However, the capacities of the terrestrial and aquatic ecosystems required for their production are limited, while there are competing claims for their utilisation, and often not optimally managed, as shown for example by a severe decline in soil carbon content and fertility and fish stock depletion. There is under-utilised scope for fostering ecosystem services from farmland, forests, marine and fresh waters by integrating agronomic, environmental and social goals into sustainable production and consumption.

The potential of biological resources and ecosystems could be used in a much more sustainable, efficient and integrated manner. For examples, the potential of biomass from agriculture, forests and waste streams from agricultural, aquatic, industrial, and also municipal origins could be better harnessed.

In essence, a transition is needed towards an optimal and renewable use of biological resources and towards sustainable primary production and processing systems that can produce more food, fibre and other bio-based products with minimised inputs, environmental impact and greenhouse gas emissions, enhanced ecosystem services, zero-waste and adequate societal value. The aim is establishing food production systems that strengthen, reinforce and nourish the resource base and enable sustainable wealth generation. Responses to the way food production is generated, distributed, marketed, consumed and regulated must be better understood and developed. A critical effort of interconnected research and innovation, as well as a continuous dialogue between political, social, economic and other stakeholder groups, is a key element for this to happen, in Europe and beyond.

2.2. *Rationale and Union added value*

Agriculture, forestry, fisheries and aquaculture together with the bio-based industries are the major sectors underpinning the bioeconomy. The bioeconomy represents a large and growing market estimated to be worth over EUR 2 trillion, providing 20 million jobs and accounting for 9 % of total employment in the Union in 2009. Investments in research and innovation under this societal challenge will enable Europe to take leadership in the concerned markets and will play a role in achieving the goals of the Europe 2020 strategy and its flagship initiatives 'Innovation Union' and 'Resource-efficient Europe'.

A fully functional European bioeconomy – encompassing the sustainable production of renewable resources from land, fisheries and aquaculture environments and their conversion into food, feed, fibre bio-based products and bioenergy as well as into the related public goods - will generate high Union added value. In parallel to the market-related function, the bioeconomy sustains also a wide range of public goods functions, biodiversity and ecosystem services. Managed in a sustainable manner, it can reduce the environmental footprint of primary production and the supply chain as a whole. It can increase their competitiveness, enhance Europe's self-reliance and provide jobs and business opportunities essential for rural and coastal development. The food security, sustainable agriculture and farming, aquatic production, forestry and overall bioeconomy – related challenges are of a European and global nature. Actions at Union level are essential to bring together clusters to achieve the necessary breadth and critical mass to complement efforts made by a single Member State or groups of Member States. A multi-actor approach will ensure the necessary cross-fertilising interactions between researchers, businesses, farmers/producers, advisors and end-users. The Union level is also necessary to ensure coherence in addressing this challenge across sectors and with strong links to relevant Union policies. Coordination of research and innovation at Union level will stimulate and help to accelerate the required changes across the Union.

Research and innovation will interface with and support elaboration of a wide spectrum of Union policies and related targets, including the Common Agriculture Policy (in particular the Rural Development Policy, the Joint Programming Initiatives, including "Agriculture, Food Security and Climate Change", "A Healthy Diet for a Healthy Life" and "Healthy and Productive Seas and Oceans") and the European Innovation Partnership 'Agricultural Productivity and Sustainability' and the European Innovation Partnership on Water, the Common Fisheries Policy, the Integrated Maritime Policy, the European Climate Change Programme, the Water Framework Directive ⁽¹⁾, the Marine Strategy Framework Directive ⁽²⁾, the EU Forestry Action Plan, the Soil Thematic Strategy, the Union's 2020 Biodiversity Strategy, the Strategic Energy Technology Plan, the Union's innovation and industrial policies, external and development aid policies, plant health strategies, animal health and welfare strategies and

⁽¹⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽²⁾ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

regulatory frameworks to protect the environment, health and safety, to promote resource efficiency and climate action, and to reduce waste. A better integration of the full cycle from basic research to innovation into related Union policies will significantly improve their Union added value, provide leverage effects, increase societal relevance, provide healthy food products and help to further develop sustainable land, seas and oceans management and bioeconomy markets.

For the purpose of supporting Union policies related to the bioeconomy and to facilitate governance and monitoring of research and innovation, socio-economic research and forward-looking activities will be performed in relation to the bioeconomy strategy, including development of indicators, data bases, models, foresight and forecast, and impact assessment of initiatives on the economy, society and the environment.

Challenge-driven actions focusing on social, economic and environmental benefits and the modernisation of the bioeconomy associated sectors and markets shall be supported through multi-disciplinary research, driving innovation and leading to the development of new strategies, practices, sustainable products and processes. It shall also pursue a broad approach to innovation ranging from technological, non-technological, organisational, economic and social innovation to, for instance, ways for technology transfer, novel business models, branding and services. The potential of farmers and SMEs to contribute to innovation must be recognised. The approach to the bioeconomy shall take account of the importance of local knowledge and diversity.

2.3. *Broad lines of activities*

(a) Sustainable agriculture and forestry

The aim is to supply sufficient food, feed, biomass and other raw-materials, while safeguarding natural resources, such as water, soil and biodiversity, in a European and world-wide perspective, and enhancing ecosystems services, including coping with and mitigating climate change. The activities shall focus on increasing the quality and value of agricultural products by delivering more sustainable and productive agriculture, including animal husbandry and forestry systems, which are diverse, resilient and resource-efficient (in terms of low-carbon and low external input and water), protect natural resources, produce less waste and can adapt to a changing environment. Furthermore, the activities shall focus on developing services, concepts and policies for thriving rural livelihoods and encouraging sustainable consumption.

In particular for forestry, the aim is to sustainably produce biomass and bio-based products and deliver ecosystem services, with due consideration to economic, ecological and social aspects of forestry. Activities will focus on the further development of production and sustainability of resource-efficient forestry systems which are instrumental in the strengthening of forest resilience and biodiversity protection, and which can meet increased biomass demand.

The interaction of functional plants with health and well being, as well as the exploitation of horticulture and forestry for the development of urban greening, will also be considered.

(b) Sustainable and competitive agri-food sector for a safe and healthy diet

The aim is to meet the requirements of citizens and the environment for safe, healthy and affordable food, and to make food and feed processing, distribution and consumption more sustainable and the food sector more competitive while also considering the cultural component of food quality. The activities shall focus on healthy and safe food for all, informed consumer choices, dietary solutions and innovations for improved health, and competitive food processing methods that use less resources and additives and produce less by-products, waste and greenhouse gases.

(c) Unlocking the potential of aquatic living resources

The aim is to manage, sustainably exploit and maintain aquatic living resources to maximise social and economic benefits/returns from Europe's oceans, seas and inland waters while protecting biodiversity. The activities shall focus on an optimal contribution to secure food supplies by developing sustainable and environmentally friendly fisheries, on sustainable management of ecosystems providing goods and services, on competitive as well as environmentally friendly European aquaculture in the context of the global economy, and on boosting marine and maritime innovation through biotechnology to fuel smart "blue" growth.

(d) Sustainable and competitive bio-based industries and supporting the development of a European bioeconomy

The aim is the promotion of low-carbon, resource-efficient, sustainable and competitive European bio-based industries. The activities shall focus on fostering the knowledge-based bioeconomy by transforming conventional industrial processes and products into bio-based resource and energy efficient ones, the development of integrated second and subsequent generation biorefineries, optimising the use of biomass from primary production including residues, biowaste and bio-based industry by-products, and opening new markets through supporting standardisation and certification systems as well as regulatory and demonstration/field trial activities, while taking into account the implications of the bioeconomy on land use and land use changes, as well as the views and concerns of civil society.

(e) Cross-cutting marine and maritime research

The aim is to increase the impact of Union seas and oceans on society and economic growth through the sustainable exploitation of marine resources as well as the use of different sources of marine energy and the wide range of different uses that is made of the seas.

Activities shall focus on cross-cutting marine and maritime scientific and technological challenges with a view to unlocking the potential of seas and oceans across the range of marine and maritime industries, while protecting the environment and adapting to climate change. A strategic coordinated approach for marine and maritime research across all challenges and priorities of Horizon 2020 will also support the implementation of relevant Union policies to help deliver key blue growth objectives.

3. Secure, clean and efficient energy

3.1. Specific objective

The specific objective is to make the transition to a reliable, affordable, publicly accepted, sustainable and competitive energy system, aiming at reducing fossil fuel dependency in the face of increasingly scarce resources, increasing energy needs and climate change.

The Union intends to reduce greenhouse gas emissions by 20 % below 1990 levels by 2020, with a further reduction to 80-95 % by 2050. In addition, renewables should cover 20 % of final energy consumption in 2020 coupled with a 20 % energy efficiency target. Achieving these objectives will require an overhaul of the energy system combining low carbon profile and the development of alternatives to fossil fuels, energy security and affordability, while at the same time reinforcing Europe's economic competitiveness. Europe is currently far from this overall goal. 80 % of the European energy system still relies on fossil fuels, and the sector produces 80 % of all the Union's greenhouse gas emissions. With a view to achieving the Union's long-term climate and energy objectives, it is appropriate to increase the share of the budget dedicated to renewable energy, end-user energy efficiency, smart grids and energy storage activities as compared to the Seventh Framework Programme, and increase the budget dedicated to market uptake of energy innovation activities undertaken under the Intelligent Energy Europe Programme within the Competitiveness and Innovation Framework Programme (2007 to 2013). The total allocation to these activities shall endeavour to reach at least 85 % of the budget under this societal challenge. Every year 2,5 % of the Union GDP is spent on energy imports and this is likely to increase. This trend would lead to total dependence on oil and gas imports by 2050. Faced with volatile energy prices on the world market, coupled with concerns over security of supply, European industries and consumers are spending an increasing share of their income on energy. European cities are responsible for 70-80 % ⁽¹⁾ of the total energy consumption in the Union and for about the same share of greenhouse gas emissions.

The Roadmap for moving to a competitive low-carbon economy in 2050 ⁽²⁾ suggests that the targeted reductions in greenhouse gas emissions will have to be met largely within the territory of the Union. This would entail reducing CO₂ emissions by over 90 % by 2050 in the power sector, by over 80 % in industry, by at least 60 % in transport and by about 90 % in the residential sector and services. The Roadmap also shows that *inter alia* natural gas, in the short to medium term, can contribute to the transformation of the energy system, combined with the use of carbon capture and storage (CCS) technology.

To achieve these ambitious reductions, significant investments need to be made in research, development, demonstration and market roll-out at affordable prices of efficient, safe, secure and reliable low-carbon energy technologies and services, including gas, electricity storage and the roll-out of small and micro-scale energy systems. These must go hand in hand with non-technological solutions on both the supply and demand sides, including by initiating participation processes and integrating consumers. All this must be part of an integrated sustainable low-carbon policy, including mastering key enabling technologies, in particular ICT solutions and advanced

⁽¹⁾ World Energy Outlook 2008, OECD- IEA, 2008.

⁽²⁾ COM(2011)0112.

manufacturing, processing and materials. The goal is to develop and produce efficient energy technologies and services, including the integration of renewable energy, that can be taken up widely on European and international markets and to establish intelligent demand-side management based on an open and transparent energy trade market and secure intelligent energy efficiency management systems.

3.2. *Rationale and Union added value*

New technologies and solutions must compete on cost and reliability against energy systems with well-established incumbents and technologies. Research and innovation are critical to make these new, cleaner, low-carbon, more efficient energy sources commercially attractive on the scale needed. Neither industry alone, nor Member States individually, are able to bear the costs and risks, for which the main drivers (transition to a low-carbon economy, providing affordable and secure energy) are outside the market.

Speeding up this development will require a strategic approach at Union level, spanning energy supply, demand and use in buildings, services, domestic use, transport and industrial value chains. This will entail aligning resources across the Union, including Cohesion Policy Funds, in particular through the national and regional strategies for smart specialisation, emission trading schemes (ETS), public procurement and other financing mechanisms. It will also require regulatory and deployment policies for renewables and energy efficiency, tailored technical assistance and capacity-building to remove non-technological barriers.

The Strategic Energy Technology Plan (SET Plan) offers such a strategic approach. It provides a long-term agenda to address the key innovation bottlenecks that energy technologies are facing at the frontier research and R&D/proof-of-concept stages and at the demonstration stage when companies seek capital to finance large, first-of-a-kind projects and to open the market deployment process. Newly emerging technologies with disruptive potential will not be neglected.

The resources required to implement the SET Plan in full have been estimated at EUR 8 billion per year over the next 10 years⁽¹⁾. This is well beyond the capacity of individual Member States or research and industrial stakeholders alone. Investments in research and innovation at Union level are needed, combined with mobilisation of efforts across Europe in the form of joint implementation and risk and capacity sharing. Union funding of energy research and innovation shall therefore complement Member States' activities by focusing on cutting-edge technologies and activities with clear Union added value, in particular those with high potential to leverage national resources and create jobs in Europe. Action at Union level shall also support high-risk, high-cost, long-term programmes beyond the reach of individual Member States, pool efforts to reduce investment risks in large-scale activities such as industrial demonstration, and develop Europe-wide, interoperable energy solutions.

Implementation of the SET Plan as the research and innovation pillar of European energy policy will reinforce the Union's security of supply and the transition to a low-carbon economy, help to link research and innovation programmes with trans-European and regional investments in energy infrastructure and increase the willingness of investors to release capital for projects with long lead-times and significant technology and market risks. It will create opportunities for innovation for small and large companies and help them become or remain competitive at world level, where opportunities for energy technologies are large and increasing.

On the international scene, the action taken at Union level provides a critical mass to attract interest from other technology leaders and to foster international partnerships to achieve the Union's objectives. It will make it easier for international partners to interact with the Union to build common action where there is mutual benefit and interest.

The activities under this societal challenge will therefore form the technological backbone of European energy and climate policy. They will also contribute to achieving the flagship initiative 'Innovation Union' in the field of energy and the policy goals outlined in the flagship initiatives 'Resource-efficient Europe', 'An Industrial Policy for the Globalisation Era' and 'Digital agenda for Europe'.

⁽¹⁾ COM(2009)0519.

Research and innovation activities on nuclear fission and fusion energy are carried out in the Euratom programme established by Regulation (Euratom) No 1314/2013. Where appropriate, possible synergies between this societal challenge and the Euratom programme should be envisaged.

3.3. *Broad lines of the activities*

(a) Reducing energy consumption and carbon footprint by smart and sustainable use

Activities shall focus on research and full-scale testing of new concepts, non-technological solutions, more efficient, socially acceptable and affordable technology components and systems with in-built intelligence, to allow real-time energy management for new and existing near-zero-emission, near-zero-energy and positive energy buildings, retrofitted buildings, cities and districts, renewable heating and cooling, highly efficient industries and mass take-up of energy efficiency and energy saving solutions and services by companies, individuals, communities and cities.

(b) Low-cost, low-carbon electricity supply

Activities shall focus on research, development and full scale demonstration of innovative renewables, efficient, flexible and low carbon emission fossil power plants and carbon capture and storage, or CO₂ re-use technologies, offering larger scale, lower cost, environmentally safe technologies with higher conversion efficiency and higher availability for different market and operating environments.

(c) Alternative fuels and mobile energy sources

Activities shall focus on research, development and full scale demonstration of technologies and value chains to make bioenergy and other alternative fuels more competitive and sustainable for power and heat and for surface, maritime and air transport, with potential for more efficient energy conversion, to reduce time to market for hydrogen and fuel cells and to bring new options showing long-term potential to maturity.

(d) A single, smart European electricity grid

Activities shall focus on research, development and full scale demonstration of new smart energy grid technologies, back-up and balancing technologies enabling higher flexibility and efficiency, including conventional power plants, flexible energy storage, systems and market designs to plan, monitor, control and safely operate interoperable networks, including standardisation issues, in an open, decarbonised, environmentally sustainable, climate-resilient and competitive market, under normal and emergency conditions.

(e) New knowledge and technologies

Activities shall focus on multi-disciplinary research for clean, safe and sustainable energy technologies (including visionary actions) and joint implementation of pan-European research programmes and world-class facilities.

(f) Robust decision making and public engagement

Activities shall focus on the development of tools, methods, models and forward-looking and perspective scenarios for a robust and transparent policy support, including activities on public engagement, user involvement, environmental impact and sustainability assessment improving the understanding of energy-related socio-economic trends and prospects.

(g) Market uptake of energy innovation - building on Intelligent Energy Europe

Activities shall build upon and further enhance those undertaken within the Intelligent Energy Europe (IEE) programme. They shall focus on applied innovation and promotion of standards to facilitate the market uptake of energy technologies and services, to address non-technological barriers and to accelerate the cost-effective implementation of the Union's energy policies. Attention will also be given to innovation for the smart and sustainable use of existing technologies.

4. **Smart, Green And Integrated Transport**

4.1. *Specific objective*

The specific objective is to achieve a European transport system that is resource-efficient, climate- and environmentally-friendly, safe and seamless for the benefit of all citizens, the economy and society.

Europe must reconcile the growing mobility needs of its citizens and goods and the changing needs shaped by new demographic and societal challenges with the imperatives of economic performance and the requirements of an energy-efficient low-carbon society and climate-resilient economy. Despite its growth, the transport sector must achieve a substantial reduction in greenhouse gases and other adverse environmental impacts, and must break its dependency on oil and other fossil fuels, while maintaining high levels of efficiency and mobility and promoting territorial cohesion.

Sustainable mobility can only be achieved through a radical change in the transport system, including in public transport, inspired by breakthroughs in transport research, far-reaching innovation, and a coherent, Europe-wide implementation of greener, safer, more reliable and smarter transport solutions.

Research and innovation must bring about focused and timely advances for all transport modes that will help achieve key Union policy objectives, while boosting economic competitiveness, supporting the transition to a climate-resilient, energy-efficient and low-carbon economy, and maintaining global market leadership both for the service industry as well as the manufacturing industry.

Although the necessary investments in research, innovation and deployment will be significant, failing to improve the sustainability of the whole transport and mobility system and failing to maintain European technological leadership in transport will result in unacceptably high societal, ecological, and economic costs in the long term, and damaging consequences on European jobs and long-term economic growth.

4.2. *Rationale and Union added value*

Transport is a major driver of Europe's economic competitiveness and growth. It ensures the mobility of people and goods necessary for an integrated European single market, territorial cohesion and an open and inclusive society. It represents one of Europe's greatest assets in terms of industrial capability and quality of service, playing a leading role in many world markets. Transport industry and transport equipment manufacturing together represent 6,3 % of the Union GDP. The transport sector's overall contribution to the Union economy is even greater, taking into account trade, services and mobility of workers. At the same time, the European transport industry faces increasingly fierce competition from other parts of the world. Breakthrough technologies will be required to secure Europe's future competitive edge and to mitigate the drawbacks of our current transport system.

The transport sector is a major contributor to greenhouse gases and generates up to a quarter of all emissions. It is also a major contributor to other air pollution problems. Transport is still 96 % dependent on fossil fuels. It is essential to reduce this environmental impact through targeted technological improvement, bearing in mind that each mode of transport faces varying challenges and is characterised by different technology integration cycles. Moreover, congestion is an increasing problem; systems are not yet sufficiently smart; alternative options for shifting towards more sustainable modes of transport are not always attractive; road fatalities remain dramatically high at 34 000 per year in the Union; citizens and businesses expect a transport system that is accessible to all, safe and secure. The urban context poses specific challenges and provides opportunities to the sustainability of transport and for a better quality of life.

Within a few decades the expected growth rates of transport would drive European traffic into a gridlock and make its economic costs and societal impact unbearable, with adverse economic and societal repercussions. If trends of the past continue in the future, passenger-kilometres are predicted to double over the next 40 years and grow twice as fast for air travel. CO₂ emissions would grow 35 % by 2050 ⁽¹⁾. Congestion costs would increase by about 50 %, to nearly EUR 200 billion annually. The external costs of accidents would increase by about EUR 60 billion compared to 2005.

⁽¹⁾ Commission White Paper "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system" (COM(2011)0144).

Business-as-usual is therefore not an option. Research and innovation, driven by policy objectives and focused on the key challenges, shall contribute substantially to achieve the Union's targets of limiting global temperature increase to 2 °C, cutting 60 % of CO₂ emissions from transport, drastically reducing congestion and accident costs, and virtually eradicating road deaths by 2050 ⁽¹⁾.

The problems of pollution, congestion, safety and security are common throughout the Union and call for collaborative Europe-wide responses. Accelerating the development and deployment of new technologies and innovative solutions for vehicles ⁽¹⁾, infrastructures and transport management will be essential to achieve a cleaner, safer, more secure, accessible and more efficient intermodal and multimodal transport system in the Union; to deliver the results necessary to mitigate climate change and improve resource efficiency; and to maintain European leadership on the world markets for transport-related products and services. These objectives cannot be achieved through fragmented national efforts alone.

Union level funding of transport research and innovation will complement Member States' activities by focusing on activities with a clear European added value. This means that emphasis will be placed on priority areas that match European policy objectives where a critical mass of effort is necessary, where Europe-wide, interoperable or multimodal integrated transport solutions can help remove bottlenecks in the transport system, or where pooling efforts transnationally and making better use of and effectively disseminating existing research evidence can reduce research investment risks, pioneer common standards and shorten time to market of research results.

Research and innovation activities shall include a wide range of initiatives, including relevant public-private partnerships, that cover the full innovation chain and follow an integrated approach to innovative transport solutions. Several activities are specifically intended to help bring results to the market: a programmatic approach to research and innovation, demonstration projects, market take-up actions and support for standardisation, regulation and innovative procurement strategies all serve this goal. In addition, using stakeholders' engagement and expertise will help bridge the gap between research results and their deployment in the transport sector.

Investing in research and innovation for a greener, smarter and fully integrated reliable transport system will make an important contribution to the objectives of the Europe 2020 strategy and of its flagship initiative 'Innovation Union'. The activities will support the implementation of the White Paper "Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system". They will also contribute to the policy goals outlined in the flagship initiatives 'Resource-efficient Europe', 'An Industrial Policy for the Globalisation Era' and 'Digital Agenda for Europe'. They will also interface with the relevant Joint Programming Initiatives.

4.3. *Broad lines of the activities*

The activities will be organised in such a way as to allow for an integrated and mode-specific approach as appropriate. Multiannual visibility and continuity will be necessary in order to take into account the specificities of each transport mode and the holistic nature of challenges, as well as the relevant Strategic Research and Innovation Agendas of the transport-related European Technology Platforms.

(a) Resource-efficient transport that respects the environment

The aim is to minimise transport systems' impact on climate and the environment (including noise and air pollution) by improving their quality and efficiency in the use of natural resources and fuel, and by reducing greenhouse gas emissions and dependence on fossil fuels.

The focus of activities shall be to reduce resource consumption, particularly fossil fuels, greenhouse gas emissions and noise levels, as well as to improve transport and vehicle efficiency; to accelerate the development, manufacturing and deployment of a new generation of clean (electric, hydrogen and other low or zero emission) vehicles, including through breakthroughs and optimisation in engines, energy storage and infrastructure; to explore and exploit the potential of alternative and sustainable fuels and innovative and more efficient propulsion and operating systems, including fuel infrastructure and charging; to optimise the planning and use of infrastructures, by means of intelligent transport systems, logistics, and smart equipment; and to increase the use of demand management and public and non-motorised transport, and of intermodal mobility chains, particularly in urban areas. Innovation aimed at achieving low or zero emissions in all modes of transport will be encouraged.

⁽¹⁾ "Vehicles" is to be understood in a broad sense, including all means of transport.

(b) Better mobility, less congestion, more safety and security

The aim is to reconcile the growing mobility needs with improved transport fluidity, through innovative solutions for seamless, intermodal, inclusive, accessible, affordable, safe, secure, healthy, and robust transport systems.

The focus of activities shall be to reduce congestion, improve accessibility, interoperability and passenger choices, and to match user needs by developing and promoting integrated door-to-door transport, mobility management and logistics; to enhance intermodality and the deployment of smart planning and management solutions; and to drastically reduce the occurrence of accidents and the impact of security threats.

(c) Global leadership for the European transport industry

The aim is to reinforce the competitiveness and performance of European transport manufacturing industries and related services (including logistic processes, maintenance, repair, retrofitting and recycling) while retaining areas of European leadership (e.g. aeronautics).

The focus of activities shall be to develop the next generation of innovative air, waterborne and land transport means, ensure sustainable manufacturing of innovative systems and equipment and to prepare the ground for future transport means, by working on novel technologies, concepts and designs, smart control systems and interoperable standards, efficient production processes, innovative services and certification procedures, shorter development times and reduced lifecycle costs without compromising operational safety and security.

(d) Socio-economic and behavioural research and forward-looking activities for policy making

The aim is to support improved policy making which is necessary to promote innovation and meet the challenges raised by transport and the societal needs related to it.

The focus of activities shall be to improve the understanding of transport-related socio-economic impacts, trends and prospects, including the evolution of future demand, and provide policy makers with evidence-based data and analyses. Attention will also be paid to the dissemination of results emerging from these activities.

5. Climate action, Environment, Resource Efficiency and Raw Materials

5.1. Specific objective

The specific objective is to achieve a resource- and water-efficient and climate change resilient economy and society, the protection and sustainable management of natural resources and ecosystems, and a sustainable supply and use of raw materials, in order to meet the needs of a growing global population within the sustainable limits of the planet's natural resources and ecosystems. Activities will contribute to increasing European competitiveness and raw materials security and to improving well being, whilst assuring environmental integrity, resilience and sustainability with the aim of keeping average global warming below 2 °C and enabling ecosystems and society to adapt to climate change and other environmental changes.

During the 20th century, the world increased both its fossil fuel use and the extraction of material resources by a factor of ten. This era of seemingly plentiful and cheap resources is coming to an end. Raw materials, water, air, biodiversity and terrestrial, aquatic and marine ecosystems are all under pressure. Many of the world's major ecosystems are being degraded, with up to 60 % of the services that they provide being used unsustainably. In the Union, some 16 tonnes of materials are used per person each year, of which 6 tonnes are wasted, with half going to landfill. The global demand for resources continues to increase with the growing population and rising aspirations, in particular of middle-income earners in emerging economies. Economic growth needs to be decoupled from resource use.

The average temperature of the Earth's surface has increased by about 0,8 °C over the past 100 years and is projected to increase by between 1,8 to 4 °C by the end of the 21st century (relative to the 1980-1999 average) ⁽¹⁾. The likely impacts on natural and human systems associated with these changes will challenge the planet and its ability to adapt, as well as threaten future economic development and the well being of humanity.

⁽¹⁾ IPCC 4th Assessment Report, 2007, (www.ipcc.ch).

The growing impacts from climate change and environmental problems, such as ocean acidification, changes in ocean circulation, increase of seawater temperature, ice melting in the Arctic and decreased seawater salinity, land degradation and use, loss of soil fertility, water scarcity, droughts and floods, seismic and volcanic hazards, changes in spatial distribution of species, chemical pollution, over-exploitation of resources, and biodiversity loss, indicate that the planet is approaching its sustainability boundaries. For example, without improvements in efficiency across all sectors, including through innovative water systems, water demand is projected to overshoot supply by 40 % in 20 years time, which will lead to severe water stress and shortages. Forests are disappearing at an alarmingly high rate of 5 million hectares per year. Interactions between resources can cause systemic risks, with the depletion of one resource generating an irreversible tipping point for other resources and ecosystems. Based on current trends, the equivalent of more than two planet Earths will be needed by 2050 to support the growing global population.

The sustainable supply and resource-efficient management of raw materials, including their exploration, extraction, processing, re-use, recycling and substitution, is essential for the functioning of modern societies and their economies. European sectors, such as construction, chemicals, automotive, aerospace, machinery and equipment, which provide a total added value of some EUR 1,3 trillion and employment for approximately 30 million people, heavily depend on access to raw materials. However, the supply of raw materials to the Union is coming under increasing pressure. Furthermore, the Union is highly dependent on imports of strategically important raw materials, which are being affected at an alarming rate by market distortions.

Moreover, the Union still has valuable mineral deposits, whose exploration, extraction and processing is limited by a lack of adequate technologies, by inadequate waste cycle management and by lack of investment, and hampered by increased global competition. Given the importance of raw materials for European competitiveness, for the economy and for their application in innovative products, the sustainable supply and resource-efficient management of raw materials is a vital priority for the Union.

The ability of the economy to adapt and become more climate change resilient and resource-efficient and at the same time to remain competitive depends on high levels of eco-innovation, of a societal, economic, organisational and technological nature. With the global market for eco-innovation worth around EUR 1 trillion per year and expected to triple by 2030, eco-innovation represents a major opportunity to boost competitiveness and job creation in European economies.

5.2. *Rationale and Union added value*

Meeting Union and international targets for greenhouse gas emissions and concentrations and coping with climate change impacts requires a transition towards a low-carbon society and the development and deployment of cost-effective and sustainable technological and non-technological solutions, and mitigation and adaptation measures, and a stronger understanding of societal responses to these challenges. Union and global policy frameworks must ensure that ecosystems and biodiversity are protected, valued and appropriately restored in order to preserve their ability to provide resources and services in the future. Water challenges in the rural, urban and industrial environments need to be addressed to promote water system innovation and resource efficiency and to protect aquatic ecosystems. Research and innovation can help secure reliable and sustainable access to and exploitation of raw materials on land and sea bed and ensure a significant reduction in resource use and wastage.

The focus of Union actions shall therefore be on supporting key Union objectives and policies covering the whole innovation cycle and the elements of the knowledge triangle, including the Europe 2020 strategy; the flagship initiatives 'Innovation Union', 'An industrial policy for the globalisation era', 'Digital Agenda for Europe' and 'Resource-efficient Europe' and the corresponding Roadmap⁽¹⁾; the Roadmap for moving to a competitive low-carbon economy in 2050; 'Adapting to climate change: Towards a European framework for action'⁽²⁾; the Raw Materials Initiative⁽³⁾; the Union's Sustainable Development Strategy⁽⁴⁾; an Integrated Maritime Policy for the Union⁽⁵⁾; the Marine Strategy Framework Directive; the Water Framework Directive and the Directives based on it; the Floods Directive⁽⁶⁾; the Eco-innovation Action Plan; and the General Union Environment Action Programme to 2020⁽⁷⁾. These actions shall, when appropriate, interface with relevant European Innovation Partnerships and Joint Programming Initiatives. These actions shall reinforce the ability of society to become more resilient to environmental and climate change and ensure the availability of raw materials.

⁽¹⁾ COM (2011)0571.

⁽²⁾ COM (2009)0147.

⁽³⁾ COM(2011)0025.

⁽⁴⁾ COM(2009)0400.

⁽⁵⁾ COM(2007)0575.

⁽⁶⁾ Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks (OJ L 288, 6.11.2007, p. 27).

⁽⁷⁾ COM(2012)0710.

Given the transnational and global nature of the climate and the environment, their scale and complexity, and the international dimension of the raw materials supply chain, activities have to be carried out at the Union level and beyond. The multi-disciplinary character of the necessary research requires pooling complementary knowledge and resources in order to effectively tackle this challenge in a sustainable way. Reducing resource use and environmental impacts, whilst increasing competitiveness, will require a decisive societal and technological transition to an economy based on a sustainable relationship between nature and human well-being. Coordinated research and innovation activities will improve the understanding and forecasting of climate and environmental change in a systemic and cross-sectoral perspective, reduce uncertainties, identify and assess vulnerabilities, risks, costs and opportunities, as well as expand the range and improve the effectiveness of societal and policy responses and solutions. Actions will also seek to improve research and innovation delivery and dissemination to support policy making and to empower actors at all levels of society to actively participate in this process.

Addressing the availability of raw materials calls for co-ordinated research and innovation efforts across many disciplines and sectors to help provide safe, economically feasible, environmentally sound and socially acceptable solutions along the entire value chain (exploration, extraction, processing, design, sustainable use and re-use, recycling and substitution). Innovation in these fields will provide opportunities for growth and jobs, as well as innovative options involving science, technology, the economy, society, policy and governance. For these reasons, European Innovation Partnerships on Water and Raw Materials have been launched.

Responsible eco-innovation may provide valuable new opportunities for growth and jobs. Solutions developed through Union level action will counter key threats to industrial competitiveness and enable rapid uptake and replication across the single market and beyond. This will enable the transition towards a green economy that takes into account the sustainable use of resources. Partners for this approach will include international, European and national policy makers, international and Member State research and innovation programmes, European business and industry, the European Environment Agency and national environment agencies, and other relevant stakeholders.

In addition to bilateral and regional cooperation, Union level actions will also support relevant international efforts and initiatives, including the Intergovernmental Panel on Climate Change (IPCC), the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES) and the Group on Earth Observations (GEO).

5.3. *Broad lines of the activities*

(a) Fighting and adapting to climate change

The aim is to develop and assess innovative, cost-effective and sustainable adaptation and mitigation measures and strategies, targeting both CO₂ and non-CO₂ greenhouse gases and aerosols, and underlining both technological and non technological green solutions, through the generation of evidence for informed, early and effective action and the networking of the required competences. Activities shall focus on improving the understanding of climate change and the risks associated with extreme events and abrupt climate-related changes with a view to providing reliable climate projections; assessing impacts at global, regional and local level, and vulnerabilities; developing innovative cost-effective adaptation and risk prevention and management measures; and supporting mitigation policies and strategies, including studies that focus on impact from other sectoral policies.

(b) Protecting the environment, sustainably managing natural resources, water, biodiversity and ecosystems

The aim is to provide knowledge and tools for the management and protection of natural resources, in order to achieve a sustainable balance between limited resources and the present and future needs of society and the economy. Activities shall focus on furthering our understanding of biodiversity and the functioning of ecosystems, their interactions with social systems and their role in sustaining the economy and human well-being; developing integrated approaches to address water-related challenges and the transition to sustainable management and use of water resources and services; and providing knowledge and tools for effective decision making and public engagement.

(c) Ensuring the sustainable supply of non-energy and non-agricultural raw materials

The aim is to improve the knowledge base on raw materials and develop innovative solutions for the cost-effective, resource-efficient and environmentally friendly exploration, extraction, processing, use and re-use, recycling and recovery of raw materials and for their substitution by economically attractive and environmentally sustainable alternatives with a lower environmental impact, including closed-loop processes and

systems. Activities shall focus on improving the knowledge base on the availability of raw materials; promoting the sustainable and efficient supply, use and re-use of raw materials, including mineral resources, from land and sea; finding alternatives for critical raw materials; and improving societal awareness and skills on raw materials.

(d) Enabling the transition towards a green economy and society through eco-innovation

The aim is to foster all forms of eco-innovation that enable the transition to a green economy. Activities shall, inter alia, build upon and enhance those undertaken in the Eco-Innovation Programme and focus on strengthening eco-innovative technologies, processes, services and products, including exploring ways to reduce the quantities of raw materials in production and consumption, overcoming barriers in this context, and boosting their market uptake and replication, with special attention for SMEs; supporting innovative policies, sustainable economic models and societal changes; measuring and assessing progress towards a green economy; and fostering resource efficiency through digital systems.

(e) Developing comprehensive and sustained global environmental observation and information systems

The aim is to ensure the delivery of the long-term data and information required to address this challenge. Activities shall focus on the capabilities, technologies and data infrastructures for Earth observation and monitoring from both remote sensing and in situ measurements that can continuously provide timely and accurate information and permit forecasts and projections. Free, open and unrestricted access to interoperable data and information will be encouraged. Activities shall help define future operational activities of the Copernicus programme and enhance the use of Copernicus data for research activities.

(f) Cultural heritage

The aim is to research into the strategies, methodologies and tools needed to enable a dynamic and sustainable cultural heritage in Europe in response to climate change. Cultural heritage in its diverse physical forms provides the living context for resilient communities responding to multivariate changes. Research in cultural heritage requires a multidisciplinary approach to improve the understanding of historical material. Activities shall focus on identifying resilience levels through observations, monitoring and modelling as well as provide for a better understanding on how communities perceive and respond to climate change and seismic and volcanic hazards.

6. Europe In A Changing World - Inclusive, Innovative And Reflective Societies

6.1. Specific objective

The specific objective is to foster a greater understanding of Europe, provide solutions and support inclusive, innovative and reflective European societies in a context of unprecedented transformations and growing global interdependencies.

Europe is confronted with major socio-economic challenges which significantly affect its common future. These include growing economic and cultural interdependencies, ageing and demographic change, social exclusion and poverty, integration and disintegration, inequalities and migration flows, a growing digital divide, fostering a culture of innovation and creativity in society and enterprises, and a decreasing sense of trust in democratic institutions and between citizens within and across borders. These challenges are enormous and they call for a common European approach, based upon shared scientific knowledge that social sciences and humanities, among others, can provide.

Significant inequalities persist in the Union both across countries and within them. In 2011 the Human Development Index, an aggregate measure of progress in health, education and income, scores the Member States between 0,771 and 0,910, thus reflecting considerable divergences between countries. Significant gender inequalities also persist: for instance, the gender pay gap in the Union remains at an average of 17,8 % in favour of men ⁽¹⁾. In 2011, one in every six Union citizens (around 80 million people) was at risk of poverty. Over the past two decades the poverty of young adults and families with children has risen. The youth unemployment rate is above 20 %. 150 million Europeans (some 25 %) have never used the internet and may never get sufficient digital literacy. Political apathy and polarisation in elections has also risen, reflecting citizens' faltering trust in current political systems.

⁽¹⁾ COM(2010)0491.

These figures suggest that some social groups and communities are persistently left out of social and economic development and/or democratic politics. These inequalities do not only stifle societal development but hamper the economies in the Union and reduce the research and innovation capacities within and across countries.

A central challenge in addressing these inequalities will be the fostering of settings in which European, national and ethnic identities can coexist and be mutually enriching.

Moreover, the number of Europeans aged over 65 is expected to rise significantly by 42 % from 87 million in 2010 to 124 million in 2030. This presents a major challenge for the economy, society and the sustainability of public finances.

Europe's productivity and economic growth rates have been relatively decreasing for four decades. Furthermore, its share of the global knowledge production and its innovation performance lead compared to key emerging economies such as Brazil and China are declining fast. Although Europe has a strong research base, it needs to make this base a powerful asset for innovative goods and services.

It is well-known that Europe needs to invest more in science and innovation and that it will also have to coordinate these investments better than in the past. Since the financial crisis many economic and social inequalities in Europe have been aggravated even further, and the return of pre-crisis rates of economic growth seems a long way off for most of the Union. The current crisis also suggests that it is challenging to find solutions to crises that reflect the heterogeneity of Member States and their interests.

These challenges must be tackled together and in innovative and multi-disciplinary ways because they interact in complex and often unexpected ways. Innovation may lead to weakening inclusiveness, as can be seen, for instance, in the phenomena of digital divide or labour market segmentation. Social innovation and social trust are sometimes difficult to reconcile in policies, for instance in socially depressed areas in large cities in Europe. Besides, the conjunction of innovation and citizens' evolving demands also lead policymakers and economic and social actors to find new answers that ignore established boundaries between sectors, activities, goods or services. Phenomena such as the growth of Internet, of the financial systems, of the ageing economy and of the ecological society abundantly show how it is necessary to think and respond to these issues across their dimensions of inclusiveness and innovation at the same time.

The in-built complexity of these challenges and the evolutions of demands thus make it essential to develop innovative research and new smart technologies, processes and methods, social innovation mechanisms, coordinated actions and policies that will anticipate or influence major evolutions for Europe. It calls for a renewed understanding of determinants of innovation. In addition, it calls for understanding the underlying trends and impacts within these challenges and rediscovering or reinventing successful forms of solidarity, behaviour, coordination and creativity that make Europe distinctive in terms of inclusive, innovative and reflective societies compared to other regions of the world.

It also requires a more strategic approach to cooperation with third countries, based on a deeper understanding of the Union's past and its current and future role as a global player.

6.2. *Rationale and Union added value*

These challenges go beyond national borders and thus call for more complex comparative analyses to develop a base upon which national and European policies can be better understood. Such comparative analyses should address mobility (of people, goods, services and capital but also of competences, knowledge and ideas) and forms of institutional cooperation, intercultural interactions and international cooperation. If these challenges are not better understood and anticipated, forces of globalisation also push European countries to compete with each other rather than cooperate, thus accentuating differences in Europe rather than commonalities and a right balance between cooperation and competition. Addressing such critical issues, including socio-economic challenges, only at national level, carries the danger of inefficient use of resources, externalisation of problems to other European and non-European countries and the accentuation of social, economic and political tensions that may directly affect the aims of the Treaties regarding its values, in particular Title I of the Treaty on European Union.

In order to understand, analyse and build inclusive, innovative and reflective societies, Europe requires a response which unfolds the potential of shared ideas for the European future to create new knowledge, technologies and capabilities. The concept of inclusive societies acknowledges the diversity in culture, regions and socio-economic settings as a European strength. Turning European diversity into a source of innovation and development is needed. Such endeavour will help Europe tackle its challenges not only internally but also as a global player on the international scene. This, in turn, will also help Member States benefit from experiences elsewhere and allow them to better define their own specific actions corresponding to their respective contexts.

Fostering new modes of cooperation between countries within the Union and worldwide, as well as across relevant research and innovation communities, will therefore be a central task under this societal challenge. Supporting social and technological innovation processes, encouraging smart and participatory public administration, as well as informing and promoting evidence-based policy making will be systematically pursued in order to enhance the relevance of all these activities for policymakers, social and economic actors, and citizens. Research and innovation will be a precondition for the competitiveness of European businesses and services with particular attention to sustainability, advancing education, increasing employment, and reducing poverty.

Union funding under this challenge will thus support the development, implementation and adaptation of key Union policies, notably the objectives of the Europe 2020 strategy. It will interface, as and when appropriate, with Joint Programming Initiatives, including "Cultural Heritage", "More Years, Better Lives" and "Urban Europe", and coordination with the JRC direct actions will be pursued.

6.3. *Broad lines of activities*

6.3.1. Inclusive societies

The aim is to gain a greater understanding of the societal changes in Europe and their impact on social cohesion, and to analyse and develop social, economic and political inclusion and positive inter-cultural dynamics in Europe and with international partners, through cutting-edge science and interdisciplinarity, technological advances and organisational innovations. The main challenges to be tackled concerning European models for social cohesion and well-being are, inter alia, migration, integration, demographic change, the ageing society and disability, education and lifelong learning, as well as the reduction of poverty and social exclusion taking into account the different regional and cultural characteristics.

Social sciences and humanities research plays a leading role here as it explores changes over time and space and enables exploration of imagined futures. Europe has a huge shared history of both co-operation and conflict. Its dynamic cultural interactions provide inspiration and opportunities. Research is needed to understand identity and belonging across communities, regions and nations. Research will support policymakers in designing policies that foster employment, combat poverty and prevent the development of various forms of divisions, conflict and political and social exclusion, discrimination and inequalities, such as gender and intergenerational inequalities, discrimination due to disability or ethnic origin, or digital or innovation divides, in European societies and in other regions of the world. It shall in particular feed into the implementation and the adaptation of the Europe 2020 strategy and the broad external action of the Union.

The focus of activities shall be to understand and foster or implement:

- (a) the mechanisms to promote smart, sustainable and inclusive growth;
- (b) trusted organisations, practices, services and policies that are necessary to build resilient, inclusive, participatory, open and creative societies in Europe, in particular taking into account migration, integration and demographic change;
- (c) Europe's role as a global actor, notably regarding human rights and global justice;
- (d) the promotion of sustainable and inclusive environments through innovative spatial and urban planning and design.

6.3.2. Innovative societies

The aim is to foster the development of innovative societies and policies in Europe through the engagement of citizens, civil society organisations, enterprises and users in research and innovation and the promotion of coordinated research and innovation policies in the context of globalisation and the need to promote the highest ethical standards. Particular support will be provided for the development of the ERA and the development of framework conditions for innovation.

Cultural and societal knowledge is a major source of creativity and innovation, including business, public sector and social innovation. In many cases social and user-led innovations also precede the development of innovative technologies, services and economic processes. The creative industries are a major resource to tackle societal challenges and for competitiveness. As interrelations between social and technological innovation are complex, and rarely linear, further research, including cross-sectoral and multidisciplinary research, is needed into the development of all types of innovation and activities funded to encourage its effective development into the future.

The focus of activities shall be to:

- (a) strengthen the evidence base and support for the flagship initiative "Innovation Union" and ERA;
- (b) explore new forms of innovation, with special emphasis on social innovation and creativity, and understand how all forms of innovation are developed, succeed or fail;
- (c) make use of the innovative, creative and productive potential of all generations;
- (d) promote coherent and effective cooperation with third countries.

6.3.3. Reflective societies - cultural heritage and European identity

The aim is to contribute to an understanding of Europe's intellectual basis – its history and the many European and non-European influences – as an inspiration for our lives today. Europe is characterized by a variety of different peoples (including minorities and indigenous people), traditions and regional and national identities as well as by different levels of economic and societal development. Migration and mobility, the media, industry and transport contribute to the diversity of views and lifestyles. This diversity and its opportunities should be recognized and considered.

European collections in libraries, including digital ones, archives, museums, galleries and other public institutions have a wealth of rich, untapped documentation and objects for study. These archival resources, together with intangible heritage, represent the history of individual Member States but also the collective heritage of a Union that has emerged through time. Such materials should be made accessible, also through new technologies, to researchers and citizens to enable a look to the future through the archive of the past. Accessibility and preservation of cultural heritage in these forms is needed for the vitality of the living engagements within and across European cultures now and contributes to sustainable economic growth.

The focus of activities shall be to:

- (a) study European heritage, memory, identity, integration and cultural interaction and translation, including its representations in cultural and scientific collections, archives and museums, to better inform and understand the present by richer interpretations of the past;
- (b) research into European countries' and regions' history, literature, art, philosophy and religions and how these have informed contemporary European diversity;
- (c) research on Europe's role in the world, on the mutual influence and ties between the regions of the world, and a view from outside on European cultures.

7. **Secure Societies - Protecting Freedom And Security Of Europe And Its Citizens**

7.1. *Specific objective*

The specific objective is to foster secure European societies in a context of unprecedented transformations and growing global interdependencies and threats, while strengthening the European culture of freedom and justice.

Europe has never been so peacefully consolidated, and the levels of security enjoyed by European citizens are high compared to other parts of the world. However, Europe's vulnerability continues to exist in a context of ever-increasing globalisation in which societies are facing security threats and challenges that are growing in scale and sophistication.

The threat of large-scale military aggressions has decreased and security concerns are focused on new multifaceted, interrelated and transnational threats. Aspects such as human rights, environmental degradation, political stability and democracy, social issues, cultural and religious identity or migration need to be taken into account. In this context the internal and external aspects of security are inextricably linked. In order to protect freedom and security, the Union requires effective responses using a comprehensive and innovative suite of security instruments. Research and innovation can play a clear supporting role although it cannot alone guarantee security. Research and innovation activities should aim at understanding, detecting, preventing, deterring, preparing and protecting against security threats. Furthermore, security presents fundamental challenges that cannot be resolved by independent and sector-specific treatment but rather need more ambitious, coordinated and holistic approaches.

Many forms of insecurity, whether from crime, violence, terrorism, natural or man-made disasters, cyber attacks or privacy abuses, and other forms of social and economic disorders increasingly affect citizens.

According to estimates, there are likely to be up to 75 million direct victims of crime every year in Europe⁽¹⁾. The direct cost of crime, terrorism, illegal activities, violence and disasters in Europe has been estimated at least EUR 650 billion (about 5 % of the Union GDP) in 2010. Terrorism has shown its fatal consequences in several parts of Europe and worldwide costing many lives and important economic losses. It also has a significant cultural and global impact.

Citizens, firms and institutions are increasingly involved in digital interactions and transactions in social, financial and commercial areas of life, but the development of Internet has also led to cyber crime worth billions of Euros each year, to cyber attacks on critical infrastructures and to breaches of privacy affecting individuals or entities across the continent. Changes in the nature and perception of insecurity in everyday life are likely to affect citizens' trust not only in institutions but also in each other.

In order to anticipate, prevent and manage these threats, it is necessary to understand the causes, develop and apply innovative technologies, solutions, foresight tools and knowledge, stimulate cooperation between providers and users, find civil security solutions, improve the competitiveness of the European security industry and services, including ICT, and prevent and combat the abuse of privacy and breaches of human rights in the Internet and elsewhere, while ensuring European citizens' individual rights and freedom.

To enhance better cross-border collaboration between different kinds of emergency services, attention should be given to interoperability and standardisation.

Finally, as security policies should interact with different social policies, enhancing the societal dimension of security research will be an important aspect of this societal challenge.

Respecting fundamental values such as freedom, democracy, equality and the rule of law must be the base of any activity undertaken in the context of this challenge to provide security to European citizens.

7.2. *Rationale and Union added value*

The Union and its citizens, industry and international partners are confronted with a range of security threats like crime, terrorism, illegal trafficking and mass emergencies due to natural or man-made disasters. These threats can span across borders and aim at physical targets or the cyberspace with attacks arising from different sources. Attacks against information or communication systems of public authorities and private entities, for instance, not only undermine the citizens' trust in information and communication systems and lead to direct financial losses and a loss of business opportunities, but may also seriously affect critical infrastructure and services such as energy, aviation and other transport, water and food supply, health, finance or telecommunications.

These threats could possibly endanger the inner foundations of our society. Technology and creative design can bring an important contribution to any response to be made. Yet, new solutions should be developed while bearing in mind the appropriateness of the means and their adequacy to the societal demand, in particular in terms of guarantees for citizens' fundamental rights and freedoms.

Finally, security also represents a major economic challenge, considering Europe's share of the fast growing global security market. Given the potential impact of some threats on services, networks or businesses, the deployment of adequate security solutions has become critical for the economy and European manufacturing competitiveness. Cooperation among Member States but also with third countries and international organisations is part of this challenge.

Union research and innovation funding under this societal challenge will thus support the development, implementation and adaptation of key Union policies, notably the objectives of the Europe 2020 strategy, the Common Foreign and Security Policy, the Union's Internal Security Strategy and the flagship initiative 'Digital Agenda for Europe'. Coordination with the JRC direct actions will be pursued.

⁽¹⁾ COM(2011)0274.

7.3. *Broad lines of activities*

The aim is to support Union policies for internal and external security and to ensure cyber security, trust and privacy in the Digital Single Market, whilst at the same time improving the competitiveness of the Union's security industry and services, including ICT. The activities will include a focus on the research and development of the next generation of innovative solutions, by working on novel concepts, designs and interoperable standards. This will be done by developing innovative technologies and solutions that address security gaps and lead to a reduction in the risk from security threats.

These mission-oriented actions will integrate the demands of different end-users (citizens, businesses, civil society organisations and administrations, including national and international authorities, civil protection, law enforcement, border guards, etc.) in order to take into account the evolution of security threats and privacy protection and the necessary societal aspects.

The focus of activities shall be to:

- (a) fight crime, illegal trafficking and terrorism, including understanding and tackling terrorist ideas and beliefs;
- (b) protect and improve the resilience of critical infrastructures, supply chains and transport modes;
- (c) strengthen security through border management;
- (d) improve cyber security;
- (e) increase Europe's resilience to crises and disasters;
- (f) ensure privacy and freedom, including in the Internet, and enhance the societal legal and ethical understanding of all areas of security, risk and management;
- (g) enhance standardisation and interoperability of systems, including for emergency purposes;
- (h) support the Union's external security policies, including conflict prevention and peace-building.

PART IV

SPREADING EXCELLENCE AND WIDENING PARTICIPATION

1. Specific objective

The specific objective is to fully exploit the potential of Europe's talent pool and to ensure that the benefits of an innovation-led economy are both maximised and widely distributed across the Union in accordance with the principle of excellence.

Despite a recent tendency for the innovation performances of individual countries and regions to converge, sharp differences among Member States still remain. Furthermore, by putting national budgets under constraint, the current financial crisis is threatening to widen gaps. Exploiting the potential of Europe's talent pool and maximising and spreading the benefits of innovation across the Union is vital for Europe's competitiveness and its ability to address societal challenges in the future.

2. Rationale and Union added value

In order to progress towards a sustainable, inclusive and smart society, Europe needs to make the best use of the intelligence that is available in the Union and to unlock untapped R&I potential.

By nurturing and connecting pools of excellence, the activities proposed will contribute to strengthening the ERA.

3. Broad lines of the activities

Specific actions will facilitate the spreading of excellence and widening of participation through the following actions:

- Teaming of excellent research institutions and low performing RDI regions aiming at the creation of new (or significant upgrade of existing) centres of excellence in low performing RDI Member States and regions.

- Twinning of research institutions aiming at significantly strengthening a defined field of research in an emerging institution through links with at least two internationally-leading institutions in a defined field.
- Establishing 'ERA Chairs' to attract outstanding academics to institutions with a clear potential for research excellence, in order to help these institutions fully unlock this potential and hereby create a level playing field for research and innovation in the ERA. Possible synergies with ERC activities should be explored.
- A Policy Support Facility to improve the design, implementation and evaluation of national/regional research and innovation policies.
- Supporting access to international networks for excellent researchers and innovators who lack sufficient involvement in European and international networks, including COST.
- Strengthening the administrative and operational capacity of transnational networks of National Contact Points, including through training, so that they can provide better support to potential participants.

PART V

SCIENCE WITH AND FOR SOCIETY

1. **Specific objective**

The aim is to build effective cooperation between science and society, to recruit new talent for science and to pair scientific excellence with social awareness and responsibility.

2. **Rationale and Union added value**

The strength of the European science and technology system depends on its capacity to harness talent and ideas from wherever they exist. This can only be achieved if a fruitful and rich dialogue and active cooperation between science and society is developed to ensure a more responsible science and to enable the development of policies more relevant to citizens. Rapid advances in contemporary scientific research and innovation have led to a rise of important ethical, legal and social issues that affect the relationship between science and society. Improving the cooperation between science and society to enable a widening of the social and political support to science and to technology in all Member States is an increasingly crucial issue which the current economic crisis has greatly exacerbated. Public investment in science requires a vast social and political constituency sharing the values of science, educated and engaged in its processes and able to recognise its contributions to knowledge, to society and to economic progress.

3. **Broad lines of activities**

The focus of activities shall be to:

- (a) make scientific and technological careers attractive to young students, and foster sustainable interaction between schools, research institutions, industry and civil society organisations;
- (b) promote gender equality in particular by supporting structural changes in the organisation of research institutions and in the content and design of research activities;
- (c) integrate society in science and innovation issues, policies and activities in order to integrate citizens' interests and values and to increase the quality, relevance, social acceptability and sustainability of research and innovation outcomes in various fields of activity from social innovation to areas such as biotechnology and nanotechnology;
- (d) encourage citizens to engage in science through formal and informal science education, and promote the diffusion of science-based activities, namely in science centres and through other appropriate channels;
- (e) develop the accessibility and the use of the results of publicly-funded research;
- (f) develop the governance for the advancement of responsible research and innovation by all stakeholders (researchers, public authorities, industry and civil society organisations), which is sensitive to society needs and demands, and promote an ethics framework for research and innovation;

- (g) take due and proportional precautions in research and innovation activities by anticipating and assessing potential environmental, health and safety impacts;
- (h) improve knowledge on science communication in order to improve the quality and effectiveness of interactions between scientists, general media and the public.

PART VI

NON-NUCLEAR DIRECT ACTIONS OF THE JOINT RESEARCH CENTRE (JRC)

1. **Specific objective**

The specific objective is to provide customer-driven scientific and technical support to Union policies, while flexibly responding to new policy demands.

2. **Rationale and Union added value**

The Union has defined an ambitious policy agenda to 2020 which addresses a set of complex and interlinked challenges, such as sustainable management of resources and competitiveness. In order to successfully tackle these challenges, robust scientific evidence is needed which cuts across different scientific disciplines and allows the sound assessment of policy options. The JRC, playing its role as the science service for Union policy making, will provide the required scientific and technical support throughout all stages of the policy-making cycle, from conception to implementation and assessment. To contribute to this specific objective it will focus its research clearly on Union policy priorities while enhancing cross-cutting competences and cooperation with the Member States.

The JRC's independence of special interests, whether private or national, combined with its scientific-technical reference role enable it to facilitate the necessary consensus building between stakeholders and policy makers. Member States and Union citizens benefit from the research of the JRC, most visibly in areas such as health and consumer protection, environment, safety and security, and management of crises and disasters.

More specifically, Member States and regions will also benefit from support to their Smart Specialisation Strategies.

The JRC is an integral part of the ERA and will continue to actively support its functioning through close collaboration with peers and stakeholders, maximising access to its facilities and through the training of researchers and by close cooperation with Member States and international institutions that pursue similar objectives. This will also promote the integration of new Member States and associated countries for which the JRC will continue to provide dedicated training courses on the scientific-technical basis of the body of Union law. The JRC will establish coordination links with other relevant Horizon 2020 specific objectives. As a complement to its direct actions and for the purpose of further integration and networking in the ERA, the JRC may also participate in Horizon 2020 indirect actions and co-ordination instruments in areas where it has the relevant expertise to produce Union added value.

3. **Broad lines of activities**

The JRC activities in Horizon 2020 will focus on the Union policy priorities and the societal challenges addressed by them. These activities are aligned with the objectives of the Europe 2020 strategy, and with the headings 'Security and citizenship' and 'Global Europe' of the Multiannual Financial Framework for 2014-2020.

The JRC's key competence areas will be energy, transport, environment and climate change, agriculture and food security, health and consumer protection, information and communication technologies, reference materials, and safety and security (including nuclear safety and security in the Euratom programme). The JRC activities in these areas will be conducted taking into account relevant initiatives at the level of regions, Member States or the Union, within the perspective of shaping the ERA.

These competence areas will be significantly enhanced with capacities to address the full policy cycle and to assess policy options. This includes:

- (a) anticipation and foresight - pro-active strategic intelligence on trends and events in science, technology and society and their possible implications for public policy;

- (b) economics - for an integrated service covering both the scientific-technical and the macro-economic aspects;
- (c) modelling - focusing on sustainability and economics and making the Commission less dependent on outside suppliers for vital scenario analysis;
- (d) policy analysis - to allow cross-sectoral investigation of policy options;
- (e) impact assessment - providing scientific evidence to support policy options.

The JRC shall continue to pursue excellence in research and extensive interaction with research institutions as the basis for credible and robust scientific-technical policy support. To that end, it will strengthen collaboration with European and international partners, inter alia by participation in indirect actions. It will also carry out exploratory research and build up competences in emerging, policy-relevant areas on a selective basis.

The JRC shall focus on:

3.1. *Excellent science*

Carry out research to enhance the scientific evidence base for policy making and examine emerging fields of science and technology, including through an exploratory research programme.

3.2. *Industrial leadership*

Contribute to European competitiveness through support to the standardisation process and standards with pre-normative research, development of reference materials and measurements, and harmonisation of methodologies in five focal areas (energy; transport; the flagship initiative 'Digital Agenda for Europe'; security and safety; consumer protection). Carry out safety assessments of new technologies in areas such as energy and transport and health and consumer protection. Contribute to facilitating the use, standardisation and validation of space technologies and data, in particular to tackle the societal challenges.

3.3. *Societal challenges*

(a) Health, demographic change and well-being

Contribute to health and consumer protection through scientific and technical support in areas such as food, feed and consumer products; environment and health; health-related diagnostic and screening practices; and nutrition and diets.

(b) Food security, sustainable agriculture and forestry, marine, maritime and inland water research, and the bioeconomy

Support the development, implementation and monitoring of European agriculture and fisheries policies, including food safety and security, and the development of a bio-economy through e.g. crop production forecasts, technical and socio-economic analyses and modelling, and promote healthy and productive seas.

(c) Secure, clean and efficient energy

Support the 20-20-20 climate and energy targets with research on technological and economic aspects of energy supply, efficiency, low-carbon technologies, and energy/electricity transmission networks.

(d) Smart, green and integrated transport

Support the Union's policy for the sustainable, safe and secure mobility of persons and goods with laboratory studies, modelling and monitoring approaches, including low-carbon technologies for transport, such as electrification, clean and efficient vehicles and alternative fuels, and smart mobility systems.

(e) Climate action, environment, resource efficiency and raw materials

Investigate the cross-sectoral challenges of the sustainable management of natural resources through monitoring of key environmental variables and the development of an integrated modelling framework for sustainability assessment.

Support resource efficiency, emission reductions and sustainable supply of raw materials through the integrated social, environmental and economic assessments of clean production processes, technologies, and products and services.

Support Union development policy goals with research to help ensure adequate supplies of essential resources focusing on monitoring environmental and resource parameters, food safety and security related analyses, and knowledge transfer.

(f) Europe in a changing world - Inclusive, innovative and reflective societies

Contribute to and monitor the implementation of the flagship initiative 'Innovation Union' with macro-economic analyses of the drivers and barriers of research and innovation, and development of methodologies, scoreboards and indicators.

Support the ERA by monitoring the functioning of the ERA and analysing drivers of and barriers to some of its key elements, and by research networking, training, and opening JRC facilities and databases to users in Member States and in candidate and associated countries.

Contribute to the key goals of the flagship initiative 'Digital Agenda for Europe' by qualitative and quantitative analyses of economic and social aspects (Digital Economy, Digital Society, Digital Living).

(g) Secure societies - Protecting freedom and security of Europe and its citizens

Support internal safety and security through the identification and assessment of the vulnerability of critical infrastructures as vital components of societal functions, and through the operational performance assessment and social and ethical evaluation of technologies related to the digital identity. Address global security challenges, including emerging or hybrid threats, through the development of advanced tools for information mining and analysis as well as for crisis management.

Enhance the Union's capacity for managing natural and man-made disasters by strengthening the monitoring of infrastructures and the development of test facilities and of global multi-hazard early warning and risk management information systems, making use of satellite-based Earth observation frameworks.

PART VII

THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

1. Specific objective

The specific objective is to integrate the knowledge triangle of higher education, research and innovation and thus to reinforce the Union's innovation capacity and address societal challenges.

Europe is facing a number of structural weaknesses when it comes to innovation capacity and the ability to deliver new services, products and processes, thereby hampering sustainable economic growth and job creation. Among the main issues at hand are Europe's relatively poor record in talent attraction and retention; the under-utilisation of existing research strengths in terms of creating economic or social value; the lack of research results brought to the market; low levels of entrepreneurial activity and mindset; low leverage of private investment in R&D; a scale of resources, including human resources, in poles of excellence which is insufficient to compete globally; and an excessive number of barriers to collaboration within the knowledge triangle of higher education, research and innovation on a European level.

2. Rationale and Union added value

If Europe is to compete on an international scale, these structural weaknesses need to be overcome. The elements identified above are common across Member States and affect the Union's innovation capacity as a whole.

The EIT will address these issues by promoting structural changes in the European innovation landscape. It will do so by fostering the integration of higher education, research and innovation of the highest standards, notably through its Knowledge and Innovation Communities (KICs), thereby creating new environments conducive to innovation, and by promoting and supporting a new generation of entrepreneurial people and by stimulating the creation of innovative spin-offs and start-ups. In doing so, the EIT will contribute fully to the objectives of the Europe 2020 strategy and notably to the flagship initiatives 'Innovation Union' and 'Youth on the Move'.

In addition, the EIT and its KICs should seek synergies and interaction across the priorities of Horizon 2020 and with other relevant initiatives. In particular, the EIT will contribute through the KICs to the specific objectives of the priority "Societal challenges" and to the specific objective "Leadership in enabling and industrial technologies".

Integrating education and entrepreneurship with research and innovation

The specific feature of the EIT is to integrate higher education and entrepreneurship with research and innovation as links in a single innovation chain across the Union and beyond, which should lead, inter alia, to an increase of innovative services, products and processes brought to the market.

Business logic and a results-oriented approach

The EIT, through its KICs, operates in line with business logic and takes a results-oriented approach. Strong leadership is a pre-requisite: each KIC is driven by a CEO. KIC partners are represented by single legal entities to allow more streamlined decision-making. KICs must produce clearly defined annual business plans, setting out a multiannual strategy and including an ambitious portfolio of activities from education to business creation, with clear targets and deliverables, looking for both market and societal impact. The current rules concerning participation, evaluation and monitoring of KICs allow fast-track, business-like decisions. Business and entrepreneurs should have a strong role in driving activities in KICs, and the KICs should be able to mobilize investment and long-term commitment from the business sector.

Overcoming fragmentation with the aid of long-term integrated partnerships

The EIT KICs are highly integrated ventures, bringing together partners from industry including SMEs, higher education, research and technology institutes, renowned for their excellence, in an open, accountable and transparent manner. KICs allow partners from across the Union and beyond to unite in new, cross-border configurations, optimise existing resources and open up access to new business opportunities through new value chains, addressing higher-risk, larger-scale challenges. KICs are open to participation of new entrants bringing added value to the partnership, including SMEs.

Nurturing Europe's main innovation asset: its highly talented people

Talent is a key ingredient of innovation. The EIT nurtures people and interactions between them, by putting students, researchers and entrepreneurs at the centre of its innovation model. The EIT will provide an entrepreneurial and creative culture and cross-disciplinary education to talented people, through EIT-labelled Masters and PhD degrees, intended to emerge as an internationally recognised brand of excellence. In doing so, the EIT strongly promotes mobility and training within the knowledge triangle.

3. **Broad lines of the activities**

The EIT shall operate mainly through the KICs particularly in areas which offer a true innovation potential. While the KICs have overall substantial autonomy in defining their own strategies and activities, there are a number of innovative features common to all KICs where coordination and synergies shall be sought. The EIT will moreover enhance its impact by disseminating good practices on how to integrate the knowledge triangle and the development of entrepreneurship, integrating relevant new partners where they can provide added value, and by actively fostering a new culture of knowledge sharing.

(a) Transferring and applying higher education, research and innovation activities for new business creation

The EIT shall aim to create an environment to develop the innovative potential of people and to capitalise on their ideas, irrespective of their place in the innovation chain. Thereby, the EIT will also help to address the 'European paradox' that excellent existing research is far from being harnessed to the full. In doing so, the EIT shall help to bring ideas to the market. Chiefly through its KICs and its focus on fostering entrepreneurial mindsets, it will create new business opportunities in the form of both start-ups and spin-offs but also within existing industry. Focus will be on all forms of innovation, including technological, social and non-technological innovation.

(b) Cutting-edge and innovation-driven research in areas of key economic and societal interest

The EIT's strategy and activities shall be driven by a focus on areas which offer a true innovation potential and have a clear relevance to the societal challenges addressed in Horizon 2020. By addressing key societal challenges in a comprehensive way, the EIT will promote inter- and multi-disciplinary approaches and help focus the research efforts of the partners in the KICs.

(c) Development of talented, skilled and entrepreneurial people with the aid of education and training

The EIT shall fully integrate education and training at all stages of careers and support and facilitate the development of new and innovative curricula to reflect the need for new profiles engendered by complex societal and economic challenges. To this end, the EIT will play a key role in promoting new joint or multiple degrees and diplomas in Member States, respecting the principle of subsidiarity.

The EIT will also play a substantial role in fine-tuning the concept of 'entrepreneurship' through its educational programmes, which promote entrepreneurship in a knowledge-intensive context, building on innovative research and contributing to solutions of high societal relevance.

(d) Dissemination of best practice and systemic knowledge-sharing

The EIT shall aim to pioneer new approaches in innovation and to develop a common innovation and knowledge-transfer culture, including in SMEs. This could happen, inter alia, by sharing the diverse experience of the KICs through various dissemination mechanisms, such as a stakeholder platform and a fellowship scheme.

(e) International dimension

The EIT acts conscientious of the global context it operates in and shall help to forge links with key international partners in accordance with Article 27(2). By scaling up centres of excellence through the KICs and by fostering new educational opportunities, it will aim to make Europe more attractive for talent from abroad.

(f) Enhancing European wide impact through an innovative funding model

The EIT will make a strong contribution to the objectives set in Horizon 2020, in particular by addressing societal challenges in a way complementing other initiatives in these areas. Within the framework of Horizon 2020 it will test out new and simplified approaches to funding and governance and thereby play a pioneering role within the European innovation landscape. Part of the annual contribution will be attributed to KICs in a competitive way. The EIT's approach to funding will be firmly based on a strong leverage effect, mobilising both public and private funds at national and Union level, and it will be communicated, in a transparent manner, to the Member States and relevant stakeholders. Moreover, it will employ entirely new vehicles for targeted support to individual activities through the EIT Foundation.

(g) Linking regional development to European opportunities

Through the KICs and their co-location centres – nodes of excellence, bringing together higher education, research and business partners in a given geographical location – the EIT will also be linked to regional policy. In particular, it shall ensure a better connection between higher education institutions, the labour market and regional innovation and growth, in the context of regional and national smart specialisation strategies. In doing so, it will contribute to the objectives of the Union's cohesion policy.

ANNEX II

Breakdown of the budget

The indicative breakdown for Horizon 2020 is as follows:

	EUR million in current prices
I Excellent science, of which:	24 441,1
1. European Research Council (ERC)	13 094,8
2. Future and Emerging Technologies (FET)	2 696,3
3. Marie Skłodowska-Curie actions	6 162
4. Research infrastructures	2 488
II Industrial leadership, of which:	17 015,5
1. Leadership in enabling and industrial technologies (*), (****)	13 557
2. Access to risk finance (**)	2 842,3
3. Innovation in SMEs (***)	616,2
III Societal challenges, of which (****)	29 679
1. Health, demographic change and well-being	7 471,8
2. Food security, sustainable agriculture and forestry, marine, maritime and inland water research, and the bioeconomy	3 851,4
3. Secure, clean and efficient energy	5 931,2
4. Smart, green and integrated transport	6 339,4
5. Climate action, environment, resource efficiency and raw materials	3 081,1
6. Europe in a changing world – Inclusive, innovative and reflective societies	1 309,5
7. Secure societies – Protecting freedom and security of Europe and its citizens	1 694,6
IV Spreading excellence and widening participation	816,5
V Science with and for society	462,2
VI Non-nuclear direct actions of the Joint Research Centre (JRC)	1 902,6
VII The European Institute of Innovation and Technology (EIT)	2 711,4
TOTAL	77 028,3

(*) Including EUR 7 711 million for Information and Communication Technologies (ICT) of which EUR 1 594 million for photonics and micro- and nanoelectronics, EUR 3 851 million for nanotechnologies, advanced materials and advanced manufacturing and processing, EUR 516 million for biotechnology and EUR 1 479 million for space. As a result, EUR 5 961 million will be available to support Key Enabling Technologies.

(**) Around EUR 994 million of this amount may go towards the implementation of Strategic Energy Technology Plan (SET Plan) projects. Around one third of this may go to SMEs.

(***) Within the target of allocating a minimum of 20 % of the total combined budgets for the specific objective 'Leadership in enabling and industrial technologies' and the priority 'Societal challenges' for SMEs, a minimum of 5 % of those combined budgets will be initially allocated to the dedicated SME instrument. A minimum of 7 % of the total budgets of the specific objective 'Leadership in enabling and industrial technologies' and the priority 'Societal challenges' will be allocated to the dedicated SME instrument averaged over the duration of Horizon 2020.

(****) The Fast Track to Innovation (FTI) pilot actions will be funded from the specific objective 'Leadership in enabling and industrial technologies' and from the relevant specific objectives of the priority 'Societal challenges'. A sufficient number of projects will be launched in order to allow a full evaluation of the FTI pilot.

REGULATION (EU) No 1292/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013
amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and
Technology

(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 173(3) 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) The Europe 2020 strategy for smart, sustainable and inclusive growth assigns a prominent role to the European Institute of Innovation and Technology ("the EIT") which contributes to a number of flagship initiatives.
- (2) During the period from 2014 to 2020 the EIT should contribute to the objectives of the "Horizon 2020 - The Framework Programme for Research and Innovation" established by Regulation (EU) No 1291/2013 ⁽³⁾ of the European Parliament and of the Council ("Horizon 2020") by integrating the knowledge triangle of higher education, research and innovation.
- (3) In order to ensure a coherent framework for participants in Horizon 2020, Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽⁴⁾ ('Rules for Participation') should apply to the EIT.
- (4) The rules concerning the management of intellectual property rights are defined in the Rules for Participation.
- (5) The rules concerning the association of third countries are defined in Horizon 2020.

⁽¹⁾ OJ C 181, 21.6.2012, p. 122.

⁽²⁾ Position of the European Parliament of 21 November 2013 (not yet published in the OJ)

⁽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) (See page 104 of this Official Journal)

⁽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) (See page 81 of this Official Journal) contained

- (6) The EIT should foster entrepreneurship in its higher education, research and innovation activities. In particular, it should promote excellent entrepreneurial education and support the creation of start-ups and spin-offs.
- (7) The EIT should directly engage with national and regional representatives and other stakeholders from across the innovation chain, generating beneficial effects on both sides. In order to render such dialogue and exchange more systematic, an EIT Stakeholder Forum should be established, bringing together the wider community of stakeholders around horizontal issues. The EIT should also carry out information and communication activities targeting relevant stakeholders.
- (8) The EIT should promote an appropriately balanced participation between the different actors from the knowledge triangle involved in the Knowledge and Innovation Communities ("KICs"). Furthermore, it should promote strong participation from the private sector, in particular micro-/small and medium-sized enterprises ("SMEs").
- (9) The scope of the EIT contribution to the KICs should be defined and the origins of the KICs' financial resources clarified.
- (10) The composition of the EIT bodies should be simplified. The functioning of the EIT Governing Board should be streamlined and the respective roles and tasks of the Governing Board and the Director should be further clarified.
- (11) New KICs, including their priority fields and the organisation and timing of the selection process, should be launched on the basis of modalities defined in the Strategic Innovation Agenda following an open, transparent and competitive process.
- (12) The KICs should broaden their educational activities to enhance the skills base across the Union, by providing professional and other appropriate training courses.
- (13) Cooperation on the organisation of monitoring and evaluations of the KICs between the Commission and the EIT is required in order to ensure coherence with the overall Union-level monitoring and evaluation system. In particular, there should be clear principles for monitoring the KICs and the EIT.

- (14) The KICs should seek synergies with relevant Union, national and regional initiatives.
- (15) In order to ensure broader participation of organisations from different Members States in the KICs, partner organisations should be established in at least three different Member States.
- (16) The EIT and the KICs should develop outreach activities and disseminate best practices, including through the Regional Innovation Scheme.
- (17) The criteria and procedures for the financing, monitoring and evaluation of the activities of the KICs should be adopted by the EIT prior to launching the KIC selection process.
- (18) The EIT Triennial Work Programme should take into account the Commission's opinion concerning the EIT's specific objectives, as defined in Horizon 2020, and its complementarities with Union policies and instruments.
- (19) The EIT, being under Horizon 2020, will be part of the mainstreaming of climate change expenditure as defined in Horizon 2020.
- (20) The evaluation of the EIT should provide timely input for the evaluation of Horizon 2020 in 2017 and 2023.
- (21) The Commission should strengthen its role in monitoring the implementation of specific aspects of EIT activities.
- (22) This Regulation lays down a financial envelope for the entire duration of Horizon 2020 which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽¹⁾, for the European Parliament and the Council during the annual budgetary procedure. The financial contribution for the EIT should be provided from Horizon 2020.
- (23) Contrary to initial expectations, the EIT Foundation will not receive a direct contribution from the Union budget, and the Union discharge procedure should therefore not apply to it.
- (24) For reasons of clarity, the Annex to Regulation (EC) No 294/2008 of the European Parliament and of the Council⁽²⁾ should be replaced by a new Annex.
- (25) Regulation (EC) No 294/2008 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 294/2008 is amended as follows:

(1) Article 2 is amended as follows:

(a) point 1 is replaced by the following:

"1. "innovation" means the process, including its outcome, by which new ideas respond to societal or economic needs and demand and generate new products, services or business and organisational models that are successfully introduced into an existing market or that are able to create new markets and that provide value to society;"

(b) point 2 is replaced by the following:

"2. "Knowledge and Innovation Community" (KIC) means an autonomous partnership of higher education institutions, research organisations, companies and other stakeholders in the innovation process in the form of a strategic network, regardless of its precise legal form, based on joint mid- to long-term innovation planning to meet the EIT challenges and contribute to attaining the objectives established under Regulation (EU) No 1291/2013 of the European Parliament and of the Council^(*) ("Horizon 2020");

^(*) Regulation (EU) No 1291/2013 of 11 December 2013 of the European Parliament and of the Council 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).";

(c) point 3 is replaced by the following:

"3. "co-location centre" means a geographical area where the main knowledge triangle partners are based and can easily interact, providing the focal point for the KICs' activity in that area;"

(d) point 4 is deleted;

(e) point 5 is replaced by the following:

"5. "partner organisation" means any organisation which is a member of a KIC and may include, in particular, higher education institutions, research organisations, public or private companies, financial institutions, regional and local authorities, foundations and non-profit organisations;"

⁽¹⁾ OJ C 373, 20.12.2013, p. 1.

⁽²⁾ Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology (OJ L 97, 9.4.2008, p. 1).

(f) point 9 is replaced by the following:

"9. "Strategic Innovation Agenda" (SIA) means a policy document outlining the priority fields and the long-term strategy of the EIT for future initiatives, including an overview of planned higher education, research and innovation activities over a period of seven years;"

(g) the following point is added:

"9a. "Regional Innovation Scheme" (RIS) means an outreach scheme targeted at partnerships between higher education institutions, research organisations, companies and other stakeholders, in order to foster innovation across the Union;"

(h) the following points are added:

"10. "Stakeholder Forum" means a platform open to representatives of national, regional and local authorities, organised interests and individual entities from business, higher education, research, associations, civil society and cluster organisations, as well as other interested parties from across the knowledge triangle;

11. "KIC added-value activities" means activities carried out by partner organisations or KIC legal entities, if applicable, contributing to the integration of the knowledge triangle of higher education, research and innovation, including the establishment, administrative and coordination activities of the KICs, and contributing to the overall objectives of the EIT."

(2) Article 3 is replaced by the following:

"Article 3

Mission and Objectives

The EIT's mission is to contribute to sustainable European economic growth and competitiveness by reinforcing the innovation capacity of the Member States and the Union in order to address major challenges faced by European society. It shall do this by promoting synergies and cooperation among, and integrating, higher education, research and innovation of the highest standards, including by fostering entrepreneurship.

The EIT' General Objectives, Specific Objectives and result indicators for the period from 2014 to 2020 are defined in Horizon 2020."

(3) Article 4(1) is amended as follows:

(a) point (a) is replaced by the following:

"(a) a Governing Board composed of high-level members experienced in higher education, research, innovation and business. It shall be responsible for steering the activities of the EIT, for the selection, designation and evaluation of the KICs, and for all other strategic decisions. It shall be assisted by an Executive Committee;"

(b) point (b) is deleted;

(c) point (c) is replaced by the following:

"(c) a Director, appointed by the Governing Board, who shall be responsible to the Governing Board for the administrative and financial management of the EIT and shall be the legal representative of the EIT;"

(4) Article 5(1) is amended as follows:

(a) point (a) is replaced by the following:

"(a) identify, in accordance with the SIA, its main priorities and activities;"

(b) point (c) is replaced by the following:

"(c) select and designate KICs in the priority fields in accordance with Article 7 and define their rights and obligations by agreement, provide them with appropriate support, apply appropriate quality control measures, continuously monitor and periodically evaluate their activities, ensure an appropriate level of coordination and facilitate communication and thematic cooperation between the KICs;"

(c) point (f) is replaced by the following:

"(f) promote the dissemination of best practices for the integration of the knowledge triangle, including among KICs, in order to develop a common innovation and knowledge transfer culture, and encourage participation in outreach activities, including in the RIS;"

(d) point (h) is replaced by the following:

"(h) promote multidisciplinary approaches to innovation, including the integration of technological, social and non-technological solutions, organisational approaches and new business models;"

(e) the following points are added:

- "(i) ensure complementarity and synergy between EIT activities and other Union programmes, where appropriate;
- (j) promote the KICs as excellent innovation partners inside and outside the Union;
- (k) establish a Stakeholder Forum to inform about the activities of the EIT, its experiences, best practices and contribution to Union innovation, research and education policies and objectives and to allow stakeholders to express their views. A meeting of the Stakeholder Forum shall be convened at least once a year. Member States' representatives shall meet in a special configuration, within the meeting of the Stakeholder Forum, to ensure appropriate communication and flow of information with the EIT, and be informed of the achievements of, give advice to, and share experiences with, the EIT and the KICs. The special configuration of Member States' representatives within the Stakeholder Forum shall also ensure appropriate synergies and complementarities between EIT and KIC activities with national programmes and initiatives, including the potential national co-financing of KIC activities."

(5) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

"(b) cutting-edge and innovation-driven research in areas of key economic and societal interest and drawing on the results of European and national research, with the potential to strengthen Europe's competitiveness at international level and find solutions for the major challenges faced by European society;"

(ii) point (c) is replaced by the following:

"(c) education and training activities at masters and doctoral level, as well as professional training courses, in disciplines with the potential to meet future European socio-economic needs and which expand the Union's talent base, promote the development of innovation-related skills, the improvement of managerial and entrepreneurial skills and the mobility of researchers and students, and foster knowledge-sharing, mentoring and networking among the recipients of EIT-labelled degrees and training;"

(iii) point (d) is replaced by the following:

"(d) outreach activities and the dissemination of best practices in the innovation sector with a focus on the development of cooperation between higher education, research and business, including the service and financial sectors;"

(iv) the following point is added:

"(e) to seek synergies and complementarities between KIC activities and existing European, national and regional programmes, where appropriate;"

(b) paragraph 2 is replaced by the following:

"2. KICs shall have substantial overall autonomy to define their internal organisation and composition, as well as their precise agenda and working methods. In particular, KICs shall:

- (a) establish governance arrangements which reflect the knowledge triangle of higher education, research and innovation;
- (b) aim to be open to new members whenever they add value to the partnership;
- (c) function in an open and transparent way, in accordance with their internal rules;
- (d) establish business plans with objectives and key performance indicators;
- (e) develop strategies for financial sustainability."

(6) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. A partnership shall be selected and designated by the EIT to become a KIC following a competitive, open and transparent procedure. Detailed criteria for the selection of the KICs, based on the principles of excellence and innovation relevance, shall be adopted and published by the EIT. External and independent experts shall be involved in the selection process;"

(b) the following paragraph is inserted:

"1a. The EIT shall launch the selection and designation of KICs according to the priority fields and time schedule defined in the SIA;"

(c) paragraph 2 is replaced by the following:

"2. In accordance with the principles enshrined in paragraph 1, the selection criteria for the designation of a KIC shall, inter alia, include:

- (a) the current and potential innovation capacity, including entrepreneurship, within the partnership as well as its excellence in higher education, research and innovation;
- (b) the partnership's capacity to achieve the goals of the SIA and thereby contribute to the general objective and priorities of Horizon 2020;
- (c) a multidisciplinary approach to innovation, including the integration of technological, social and non-technological solutions;
- (d) the partnership's capacity to ensure sustainable and long-term self-supporting financing, including a substantial and increasing contribution from the private sector, industry and services;
- (e) an appropriately balanced participation in the partnership of organisations active in the knowledge triangle of higher education, research and innovation;
- (f) the demonstration of a plan for the management of intellectual property appropriate to the sector concerned, including the way in which contributions from the various partner organisations have been taken into account;
- (g) measures to support the involvement of, and cooperation with, the private sector, including the financial sector and in particular SMEs, as well as the creation of start-ups, spin-offs and SMEs, with a view to the commercial exploitation of the results of the activities of KICs;
- (h) readiness to establish concrete measures to interact and cooperate with the public and third sectors, as appropriate;
- (i) readiness to interact with other organisations and networks outside the KIC with the aim of sharing best practices and excellence;
- (j) readiness to establish concrete proposals for synergies with Union and other relevant initiatives.";

(d) paragraph 3 is replaced by the following:

"3. The minimum condition to form a KIC is the participation of at least three partner organisations, established in at least three different Member States. All such partner organisations must be independent of each other, within the meaning of Article 8 of Regulation (EU) No 1290/2013 of the European Parliament and of the Council (*).

(*) 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).";

(e) paragraph 4 is replaced by the following:

"4. In addition to the condition set out in paragraph 3, at least two thirds of the partner organisations forming a KIC shall be established in the Member States. At least one higher education institution and one private company shall be part of each KIC.";

(f) the following paragraph is added:

"5. The EIT shall adopt and publish criteria and procedures for financing, monitoring and evaluating the activities of the KICs prior to the launching of the selection procedure for new KICs. The special configuration of Member States' representatives within the Stakeholder Forum shall be promptly informed of them.".

(7) The following Articles are inserted:

"Article 7a

Principles for the evaluation and monitoring of KICs

The EIT shall, on the basis of key performance indicators set out, inter alia, in Regulation (EU) No 1291/2013 and in the SIA, and in cooperation with the Commission, organise continuous monitoring and periodic external evaluations of the output, results and impact of each KIC. The results of such monitoring and evaluations shall be reported to the European Parliament and to the Council and shall be made public.

Article 7b

Duration, continuation and termination of a KIC

1. Subject to the outcome of the continuous monitoring and periodic evaluations and to the specificities of particular fields, a KIC shall normally have a time-frame of seven to fifteen years.

2. The EIT may establish a framework partnership agreement with a KIC for an initial period of seven years.

3. The Governing Board may decide to extend the framework partnership agreement with a KIC beyond the period initially set, within the limits of the financial envelope referred to in Article 19, if this is the most appropriate way to achieve the objectives of the EIT.

4. In the event that evaluations of a KIC show inadequate results, the Governing Board shall take appropriate measures, including the reduction, modification or withdrawal of its financial support or the termination of the agreement."

(8) In Article 8(2), the following point is inserted:

"(aa) disseminate best practices on horizontal issues;"

(9) Article 10 is deleted.

(10) Article 13(2) is replaced by the following:

"2. The EIT shall make public its rules of procedure, its specific financial rules referred to in Article 21(1) and the detailed criteria for the selection of the KICs referred to in Article 7 before issuing calls for proposals for the selection of the KICs."

(11) Article 14 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. The KICs shall be financed, in particular, from the following sources:

- (a) contributions from partner organisations, forming a substantial source of funding;
- (b) voluntary contributions from Member States, third countries or public authorities within them;
- (c) contributions from international bodies or institutions;
- (d) revenue generated by the KICs' own assets and activities and royalties from intellectual property rights;
- (e) capital endowments, including those managed by the EIT Foundation;
- (f) bequests, donations and contributions from individuals, institutions, foundations or any other national bodies;
- (g) the contribution from the EIT;
- (h) financial instruments, including those funded from the general budget of the Union.

Contributions may include contributions in kind."

(b) paragraph 4 is replaced by the following:

"4. The EIT contribution to the KICs may cover up to 100 % of the total eligible costs of KIC added-value activities.";

(c) the following paragraphs are added:

"6. The EIT contribution shall not, on average, exceed 25 % of a KIC's overall funding.

7. The EIT shall establish a competitive review mechanism for allocating an appropriate share of its financial contribution to the KICs. It shall include assessing the KICs' business plans and performance as measured by continuous monitoring."

(12) Article 15 is replaced by the following:

"Article 15

Programming and reporting

1. The EIT shall adopt a rolling triennial work programme, based on the SIA, once it is adopted, containing a statement of the major priorities and planned initiatives of the EIT and the KICs, including an estimate of financing needs and sources. It shall also contain appropriate indicators for monitoring the KICs and EIT activities using a results-oriented approach. The preliminary rolling triennial work programme shall be submitted by the EIT to the Commission by 31 December of the year which ends two years before the entry into force of the triennial work programme in question (year N - 2).

The Commission shall deliver an opinion on EIT specific objectives as defined in Horizon 2020 and its complementarities with Union policies and instruments within three months of the submission of the work programme. The EIT shall take due account of the Commission opinion and, in the event of disagreement, justify its position. The final work programme shall be transmitted by the EIT to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Committee of the Regions for information. Upon request, the Director shall present the final work programme to the committee responsible of the European Parliament.

2. The EIT shall adopt an annual report by 30 June each year. The report shall outline the activities conducted by the EIT and the KICs during the preceding calendar year and assess the results with respect to the objectives, indicators and timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the EIT. The EIT shall transmit the annual report to the European Parliament and the Council and inform them of the activities of the EIT, its contribution to Horizon 2020 and to the Union innovation, research and education policies and objectives at least once a year."

(13) Article 16 is amended as follows:

- (a) in paragraph 2, the word "five" is replaced by the word "three";
- (b) the following paragraph is inserted:

"2a. The Commission may carry out further evaluations of themes or topics of strategic relevance, with the assistance of independent experts, to examine the progress made by the EIT towards the objectives set, identify the factors contributing to the implementation of the activities and identify best practices. In so doing, the Commission shall fully consider the administrative impact on the EIT and the KICs."

(14) Article 17 is amended as follows:

- (a) paragraph 2 is replaced by the following:

"2. The SIA shall define the priority fields and the long-term strategy for the EIT and shall include an assessment of its socioeconomic impact and its capacity to generate the best innovation added-value. The SIA shall take into account the results of the monitoring and evaluation of the EIT as referred to in Article 16."

- (b) the following paragraph is inserted:

"2a. The SIA shall include an analysis of potential and appropriate synergies and complementarities between EIT activities and other Union initiatives, instruments and programmes."

- (c) paragraph 4 is replaced by the following:

"4. Acting on a proposal from the Commission, the European Parliament and the Council shall adopt the SIA in accordance with Article 173(3) of the Treaty on the Functioning of the European Union."

(15) Article 19 is replaced by the following:

"Article 19

Budgetary commitments

1. The financial envelope from Horizon 2020 for the implementation of this Regulation during the period from 1 January 2014 to 31 December 2020 is set at EUR 2 711,4 million in current prices.

2. That amount shall constitute the prime reference for the European Parliament and the Council during the budgetary procedure, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the

Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (*).

3. The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the financial framework. The EIT financial contribution to the KICs shall be provided under this financial envelope.

(*) OJ C 373, 20.12.2013, p. 1."

(16) Article 20 is amended as follows:

- (a) paragraph 5 is replaced by the following:

"5. The Governing Board shall adopt the draft estimate, accompanied by a draft establishment plan and the preliminary rolling triennial work programme and forward them to the Commission by 31 December of the year N - 2."

- (b) paragraph 6 is replaced by the following:

"6. On the basis of the estimate, the Commission shall enter in the draft general budget of the Union the estimates it deems necessary for the amount of the subsidy to be charged to the general budget."

(17) Article 21 is amended as follows:

- (a) the following paragraph is inserted:

"1a. The financial contribution to the EIT shall be implemented in accordance with Regulation (EU) No 1290/2013 and with Regulation (EU) No 1291/2013."

- (b) paragraph 4 is replaced by the following:

"4. Upon a recommendation from the Council, the European Parliament shall, before 15 May of the year N + 2, give a discharge for the year N to the Director in respect of the implementation of the EIT budget."

(18) Article 22(4) is deleted.

(19) The following Article is inserted:

"Article 22a

Winding up of the EIT

In the event of the EIT being wound up, its liquidation shall take place under the supervision of the Commission in accordance with the applicable laws. The agreements with the KICs and the act establishing the EIT Foundation shall lay down the appropriate provisions in such situation."

Article 2

The Annex to Regulation (EC) No 294/2008 shall be replaced by the Annex to this Regulation.

Article 3

This Regulation shall enter into force on 1 January 2014.

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

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

ANNEX

Statutes of the European Institute of Innovation and Technology

SECTION 1

COMPOSITION OF THE GOVERNING BOARD

1. The Governing Board shall consist both of appointed and of representative members.
2. There shall be 12 appointed members, appointed by the Commission, providing a balance between those with experience in business, higher education and research. They shall have a four-year non-renewable term of office.

Whenever necessary, the Governing Board shall submit to the Commission a proposal for appointment of a new member(s). The candidate(s) shall be chosen on the basis of the outcome of a transparent and open procedure, involving consultation with stakeholders.

The Commission shall have regard to the balance between higher education, research, innovation and business experience as well as to gender and geographical balance and an appreciation of the higher education, research and innovation environment across the Union.

The Commission shall appoint the member(s) and inform the European Parliament and the Council of the selection process and of the final appointment of those members of the Governing Board.

In the event that an appointed member is unable to complete his/her term of office, a substitute member shall be appointed by the same procedure as the incapacitated member in order to complete the latter's term of office. A substitute member who has served for a period of less than two years may be re-appointed by the Commission for an additional period of four years at the request of the Governing Board.

During a transitional period, the Board members initially appointed for a six-year period shall complete their term of office. Until that time there shall be 18 appointed members. Within six months of entry into force of this Regulation, one third of the twelve members appointed in 2012 shall be chosen by the Governing Board with the Commission's approval to serve for a two-year period, one third for a four-year period and one third for a six-year period.

In exceptional and duly justified circumstances, in order to maintain the integrity of the Governing Board, the Commission may, at its own initiative, terminate the term of office of a member of the Board.

3. There shall be three representative members elected by the KICs from among their partner organisations. They shall have a two-year term of office, renewable once. Their term of office shall cease if they leave the KIC.

The conditions and procedures for the election and replacement of the representative members shall be adopted by the Governing Board on the basis of a proposal from the Director. This mechanism shall ensure an appropriate representation of diversity and shall take into account the evolution of the KICs.

During a transitional period, the representative members initially elected for a three-year period shall complete their term of office. Until that time there shall be four representative members.

4. The Governing Board members shall act in the interests of the EIT, safeguarding its goals and mission, identity, autonomy and coherence, in an independent and transparent way.

SECTION 2

RESPONSIBILITIES OF THE GOVERNING BOARD

The Governing Board shall take necessary strategic decisions, in particular:

- (a) adopt the EIT's draft Strategic Innovation Agenda (SIA), triennial rolling work programme, budget, annual accounts and balance sheet and annual activity report, on the basis of a proposal from the Director;
- (b) adopt criteria and procedures for financing, monitoring and evaluating the activities of the KICs, on the basis of a proposal from the Director;
- (c) adopt the selection procedure of the KICs;

- (d) select and designate a partnership as a KIC or withdraw the designation where appropriate;
- (e) ensure the continuing evaluation of the activities of the KICs;
- (f) adopt its rules of procedure, those for the Executive Committee, as well as the specific financial rules of the EIT;
- (g) define, with the Commission's agreement, appropriate fees for members of the Governing Board and of the Executive Committee; such fees shall be benchmarked against similar remuneration in the Member States;
- (h) adopt a procedure for selecting the Executive Committee and the Director;
- (i) appoint and if necessary dismiss the Director, and exercise disciplinary authority over him/her;
- (j) appoint the Accounting Officer and the members of the Executive Committee;
- (k) adopt a code of good conduct regarding conflicts of interest;
- (l) establish, where appropriate, advisory groups which may have a defined duration;
- (m) set up an Internal Auditing Function in accordance with Commission Regulation (EC, Euratom) No 2343/2002 ⁽¹⁾;
- (n) be empowered to establish a Foundation with the specific objective of promoting and supporting the activities of the EIT;
- (o) decide on the language policy of the EIT, taking into account existing principles on multilingualism and the practical requirements of its operations;
- (p) promote the EIT globally, so as to raise its attractiveness and make it a world-class body for excellence in higher education, research and innovation.

SECTION 3

FUNCTIONING OF THE GOVERNING BOARD

1. The Governing Board shall elect its Chairperson from among the appointed members. The term of office of the Chairperson shall be two years, renewable once.
2. Without prejudice to paragraph 3, the Governing Board shall adopt decisions by simple majority of members having a right to vote.

However, decisions under points (a), (b), (c), (i) and (o) of Section 2, and under paragraph 1 of this Section shall require a majority of two thirds of its members having the right to vote.
3. The representative members may not vote on decisions under points (b), (c), (d), (e), (f), (g), (i), (j), (k), (o) and (p) of Section 2.
4. The Governing Board shall meet in ordinary session at least three times a year and in extraordinary session when convened by its Chairperson or at the request of at least one third of all its members.
5. The Governing Board shall be assisted by the Executive Committee. The Executive Committee shall consist of three appointed members and the Chairperson of the Governing Board, who shall also chair the Executive Committee. The three members other than the Chairperson shall be chosen by the Governing Board from among the Governing Board's appointed members. The Governing Board may delegate specific tasks to the Executive Committee.

SECTION 4

THE DIRECTOR

1. The Director shall be a person with expertise and high reputation in the areas where the EIT operates. The Director shall be appointed by the Governing Board for a term of office of four years. The Governing Board may extend that term of office once by a four-year period when it considers that the interests of the EIT are best served by so doing.

⁽¹⁾ Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (O) L 357, 31.12.2002, p. 72.

2. The Director shall be responsible for operations and for the day-to-day management of the EIT and shall be its legal representative. The Director shall be accountable to the Governing Board and report to it on an ongoing basis on the development of the EIT activities.
3. The Director shall in particular:
 - (a) organise and manage the activities of the EIT;
 - (b) support the Governing Board and the Executive Committee in their work, provide the secretariat for their meetings and supply all information necessary for the performance of their duties;
 - (c) prepare a draft SIA, a preliminary rolling triennial work programme, the draft annual report and the draft annual budget for submission to the Governing Board;
 - (d) prepare and administer the KICs selection process and ensure that the various stages of that process are carried out in a transparent and objective manner;
 - (e) prepare, negotiate and conclude contractual agreements with the KICs;
 - (f) organise the Stakeholder Forum, including the special configuration of Member States' representatives;
 - (g) ensure the implementation of effective monitoring and evaluation procedures relating to the performance of the EIT in accordance with Article 16 of this Regulation;
 - (h) be responsible for administrative and financial matters, including the implementation of the EIT budget, taking due account of advice received from the Internal Auditing Function;
 - (i) be responsible for all staff matters;
 - (j) submit the draft annual accounts and balance sheet to the Internal Auditing Function, and subsequently to the Governing Board, through the Executive Committee;
 - (k) ensure that the obligations of the EIT with regard to the contracts and agreements it has concluded are met;
 - (l) ensure effective communication with the Union's institutions;
 - (m) act in the interests of the EIT, safeguarding its goals and mission, identity, autonomy and coherence, in an independent and transparent way.

SECTION 5

STAFF OF THE EIT

1. The staff of the EIT shall consist of personnel employed directly by the EIT under fixed-term contracts. The conditions of employment of other servants of the European Union shall apply to the Director and the staff of the EIT.
 2. Experts may be seconded to the EIT for a limited period. The Governing Board shall adopt provisions enabling seconded experts to work at the EIT and defining their rights and responsibilities.
 3. The EIT shall exercise, with regard to its staff, the powers which are devolved to the authority authorised to conclude contracts with its staff.
 4. A member of staff may be required to make good, in whole or in part, any damage suffered by the EIT as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.
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**REGULATION (EU) No 1293/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

**on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing
Regulation (EC) No 614/2007**

(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 192 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) Union environmental and climate policy and legislation have delivered substantial improvements to the state of the environment. However, major environmental and climate challenges remain which, if left unaddressed, will have significant consequences for the Union.

(2) Tackling those environmental and climate challenges should, due to their scale and complexity, be funded primarily through the Union's major funding programmes. In its Communication of 29 June 2011 entitled "A Budget for Europe 2020", recognising the climate change challenge, the Commission stated that it intends to increase the climate-related proportion of the Union budget to at least 20 % with contributions from different policies. This Regulation should contribute to the achievement of that goal.

(3) Those Union funding programmes cannot address all specific needs relating to the environment and climate action. For the environment and for climate action, specific approaches are required to deal with uneven integration of their objectives into Member States' practices, uneven and inadequate implementation of the legislation in the Member States, and insufficient dissemination of information about, and promotion of, policy goals. It is appropriate to provide a follow-up to the programme established by Regulation (EC) No 614/2007 of the European Parliament and of the Council ⁽⁴⁾ and adopt a new regulation. Therefore, this Regulation should establish a dedicated funding Programme for the Environment and Climate Action (the "LIFE Programme"). In order for Union funding to achieve substantial impact, close synergies and complementarity should be developed between the LIFE Programme and other Union funding programmes.

(4) Environmental assets are unevenly distributed across the Union, but their benefits concern, and are felt by, the Union as a whole. The Union's obligation to preserve those assets calls for the consistent application of the principles of solidarity and responsibility sharing, which require that some Union environmental and climate problems be better addressed at regional or local level. Since 1992, LIFE programmes have played an essential role for better solidarity and responsibility sharing in preserving the common good of the Union's environment and climate. The LIFE Programme should continue playing that role.

(5) Given its characteristics and size, the LIFE Programme cannot solve all environmental and climate problems. Rather, its objective should be to act as a catalyst for changes in policy development and implementation by providing and disseminating solutions and best practices to achieve environmental and climate goals, and by promoting innovative environmental and climate change technologies. In that endeavour, the LIFE Programme should support the implementation of the General Union Environment Action Programme to 2020 "Living well, within the limits of our planet" as established by Decision of the European Parliament and of the Council ⁽⁵⁾ ("7th Environment Action Programme").

⁽¹⁾ OJ C 191, 29.6.2012, p. 111.

⁽²⁾ OJ C 277, 13.9.2012, p. 61.

⁽³⁾ Position of the European Parliament of 21 November 2013 (not yet published in the Official Journal) and decision of the Council of 5 December 2013.

⁽⁴⁾ Regulation (EC) No 614/2007 of the European Parliament and of the Council of 23 May 2007 concerning the Financial Instrument for the Environment (LIFE+) (OJ L 149, 9.6.2007, p. 1).

⁽⁵⁾ Decision of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 "Living well, within the limits of our planet".

- (6) This Regulation lays down a financial envelope of EUR 3 456,655 million in current prices, which amounts to 0,318 % of the total amount of commitment appropriations referred to in Council Regulation (EU, Euratom) No 1311/2013 ⁽¹⁾, for the entire duration of the LIFE Programme which is to constitute the prime reference amount, within the meaning of Point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, cooperation in budgetary matters and on sound financial management ⁽²⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (7) In line with the conclusions of the Luxembourg European Council of December 1997 and of the Thessaloniki European Council of June 2003, candidate countries and the Western Balkan countries involved in the Stabilisation and Association Process, as well as countries to which the European Neighbourhood Policy applies, should be eligible to participate in Union programmes, in accordance with the conditions laid down in the relevant bilateral or multilateral agreements concluded with those countries.
- (8) Pursuant to Council Decision 2001/822/EC ⁽³⁾ (the Overseas Association Decision), individuals from an overseas country or territory (OCT) and, where applicable, the relevant public and/or private bodies and institutions in an OCT are eligible to participate in Union programmes, subject to the rules and objectives of the programme in question, as well as to the arrangements applicable to the Member State to which the OCT is linked.
- (9) For environmental and climate action-related investments within the Union to be effective, some activities need to be implemented outside its borders. Those investments may not always be financed under the Union's external action financial instruments. Interventions in countries not directly participating in the LIFE Programme, and participation of legal persons based in those countries in activities financed under the LIFE Programme should exceptionally be possible, provided specific conditions set out in this Regulation are met.
- (10) This Regulation should also provide a framework for cooperation with and for providing support to relevant international organisations with a view to responding to

environmental and climate policy needs that do not fall within the scope of external action financial instruments, such as certain studies.

- (11) Environmental and climate requirements should be integrated into the Union's policies and activities. The LIFE Programme should therefore be complementary to other Union funding programmes, including the European Regional Development Fund ⁽⁴⁾, the European Social Fund ⁽⁵⁾, the Cohesion Fund ⁽⁶⁾, the European Agriculture Guarantee Fund ⁽⁷⁾, the European Agricultural Fund for Rural Development ⁽⁸⁾, the European Maritime and Fisheries Fund, and Horizon 2020 - The Framework Programme for Research and Innovation ⁽⁹⁾ ("Horizon 2020").

The Commission and Member States should ensure such complementarity at all levels. At Union level, complementarity should be ensured by establishing structured cooperation between the LIFE Programme and the shared-management Union funding programmes in the Common Strategic Framework, established by Regulation of the European Parliament and of the Council (EU) No 1303/2013 ⁽¹⁰⁾ ("Common Provisions Regulation"), in particular in order to promote funding of activities that complement integrated projects or support the use of solutions, methods and approaches developed under the LIFE Programme. The LIFE Programme should also encourage the uptake of the results of environmental and climate-related research and innovation of Horizon 2020. Within this context it should offer co-financing opportunities for projects with clear environmental and climate benefits in order to ensure synergies between the LIFE Programme and Horizon 2020. Coordination is required to prevent double funding. The Commission

⁽¹⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (See page 884 of this Official Journal).

⁽²⁾ OJ C 373, 20.12.2013, p. 1.

⁽³⁾ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ("Overseas Association Decision") (OJ L 314, 30.11.2001, p. 1).

⁽⁴⁾ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (See page 289 of this Official Journal).

⁽⁵⁾ Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Regulation (EC) No 1081/2006 (See page 470 of this Official Journal).

⁽⁶⁾ Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Regulation (EC) No 1084/2006 (See page 281 of this Official Journal).

⁽⁷⁾ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).

⁽⁸⁾ Regulation (EC) No 1290/2005.

⁽⁹⁾ 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 (See page 104 of this Official Journal).

⁽¹⁰⁾ Regulation of the European Parliament and of the Council (EU) No 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

should take steps to prevent overlap and additional administrative burden on project beneficiaries arising from reporting obligations from different financial instruments. To ensure clarity and the practical feasibility of integrated projects under the LIFE Programme, potential arrangements for cooperation should be laid down at an early stage. Member States should envisage referring to such arrangements in their Partnership Agreements to ensure that advantages of integrated projects can be taken into account during the drawing-up of operational or rural development programmes.

(12) Halting and reversing the loss of biodiversity and improving resource efficiency, together with addressing environment and health-related concerns, remain key challenges for the Union. These challenges require increased efforts at Union level to provide solutions and best practices that help to achieve the targets of the Commission Communication of 3 March 2010 entitled "Europe 2020: a strategy for smart, sustainable and inclusive growth" (the "Europe 2020 Strategy"). In addition, improved governance, in particular through awareness raising and stakeholder involvement, is essential to deliver environmental objectives. Therefore the sub-programme for Environment should have three priority areas for action: Environment and Resource Efficiency, Nature and Biodiversity, and Environmental Governance and Information. It should be possible for projects financed by the LIFE Programme to contribute to the achievement of the specific objectives of more than one of those priority areas and to involve the participation of more than one Member State.

(13) The Commission Communication of 20 September 2011 entitled "Roadmap to a Resource Efficient Europe" proposed the milestones and actions that are needed to put the Union on a path to resource-efficient and sustainable growth. Therefore, the priority area Environment and Resource Efficiency should support the effective implementation of Union environmental policy by the public and private sectors, in particular in the environmental sectors covered by the Roadmap to a Resource Efficient Europe, by facilitating the development and sharing of new solutions and best practices. In this context the Commission should ensure consistency and avoid overlap with Horizon 2020.

(14) The Commission Communication of 3 May 2011 entitled "Our life insurance, our natural capital: an EU biodiversity strategy to 2020" (the "Union Biodiversity Strategy to 2020") has set targets to halt and reverse biodiversity loss. Those targets include, inter alia, the

full implementation of Council Directive 92/43/EEC⁽¹⁾ and Directive 2009/147/EC of the European Parliament and of the Council⁽²⁾, as well as maintaining and restoring ecosystems and their services. The LIFE Programme should contribute to achieving those targets. Therefore, the priority area Nature and Biodiversity should focus on the implementation and management of the Natura 2000 network set up under Directive 92/43/EEC, in particular in relation to the prioritised action framework prepared on the basis of Article 8 of that Directive, on the development and dissemination of best practices in relation to biodiversity and Directives 92/43/EEC and 2009/147/EC, as well as on the wider biodiversity challenges identified by the Union Biodiversity Strategy to 2020.

(15) The contribution of the LIFE Programme to the annual funding needs of the Natura 2000 network should be seen in the context of secured biodiversity expenses from other Union funds. Particular importance should be given to integrated projects under the LIFE Programme as a coordinated funding mechanism for the Natura 2000 network, given their potential to leverage funds and to increase the absorption capacity for nature and biodiversity spending within other Union funds.

(16) Forests play a significant role for environment and climate as regards, for instance, biodiversity, water, soil, and climate change mitigation and adaptation. Forests and soils help to regulate the climate by taking up carbon dioxide (CO₂) from the atmosphere and storing immense amounts of carbon. To optimise that role, the provision of relevant, compatible data and information is necessary. This Regulation should therefore also represent a framework for supporting synergies between environmental and climate actions associated with forests and soils, including their monitoring. Other areas for increased synergies are water scarcity and droughts, as well as management of flood risks.

(17) With a view to optimising the use of LIFE Programme resources, synergies between actions under the sub-programme for Environment, in particular to protect biodiversity, and climate change mitigation and adaptation measures under the sub-programme for Climate Action should be fostered.

⁽¹⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽²⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

- (18) The Commission Communication of 15 December 2011 entitled "A Roadmap for moving to a competitive low carbon economy in 2050" (the "Roadmap 2050") acknowledged that testing new approaches to climate change mitigation would remain essential for moving to a low-carbon economy. Adaptation to climate change, as a cross-cutting Union priority, also needs to be ensured. Moreover, governance promotion and awareness raising is essential to deliver constructive results and to ensure stakeholder involvement. Therefore, the sub-programme for Climate Action should support efforts contributing to three priority areas: Climate Change Mitigation, Climate Change Adaptation and Climate Governance and Information. It should be possible for projects financed by the LIFE Programme to contribute to the achievement of the specific objectives of more than one of those priority areas and to involve the participation of more than one Member State.
- (19) The priority area Climate Change Mitigation should contribute to the development and implementation of Union climate-related policy and legislation, in particular with regard to greenhouse gas monitoring and reporting, policies related to land use, land-use change and forestry, conservation of natural carbon sinks, the emissions trading system, Member States' effort to reduce greenhouse gas emissions, carbon capture and storage, renewable energy, energy efficiency, transport and fuels, ozone layer protection and fluorinated gases. The construction of carbon capture and storage infrastructure is considered beyond the scope of the LIFE Programme and is therefore not to be supported.
- (20) The first consequences of climate change can already be seen in Europe and worldwide, such as extreme weather conditions leading to floods and droughts, and rising temperatures and sea levels. The priority area Climate Change Adaptation should therefore help populations, economic sectors and regions to adapt to such impacts through specific adaptation measures and strategies, in order to ensure a more resilient Union. Actions in this field should be complementary to actions eligible for funding under the civil protection financial instrument as established by Decision No 1313/2013/EU of the European Parliament and of the Council⁽¹⁾. The construction of large infrastructure is considered beyond the scope of the LIFE Programme and is therefore not to be supported.
- (21) Full implementation of environmental and climate policy and legislation is inextricably linked to achieving better governance, improving stakeholder involvement and disseminating information. Therefore, the priority areas Governance and Information should in both sub-programmes support the development of cooperation platforms and the sharing of best practices for more effective compliance and enforcement, including training programmes for judges and public prosecutors, and should generate support from the public and stakeholders for the Union's policy-making efforts in the areas of environment and climate. In particular, they should support improvements in the dissemination of knowledge base and best practices in the implementation of Union legislation, in awareness raising, and in public participation, access to information and access to justice on environmental matters.
- (22) In the framework of this Regulation, support should be provided in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽²⁾. Projects financed under the LIFE Programme should meet eligibility and award criteria to secure the best possible use of Union funds and to ensure Union added value. When evaluating Union added value, the Commission should pay particular attention, as applicable to the priority areas, to the potential of projects to be replicated and transferred, the sustainability of their results and the contribution to achieving the general and specific objectives of the priority areas as well as to the thematic priorities implemented through the project topics. Projects with cross-sectoral impacts should be encouraged. The Commission should also promote and encourage the use of green public procurement, in particular when implementing projects.
- (23) In order to maintain a level playing field for all undertakings active in the internal market and to avoid undue distortions of competition, funding provided under the LIFE Programme should address market failures, where appropriate. Moreover, in cases where funding constitutes state aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (TFEU), it should be designed in a way consistent with state aid rules so as to prevent market distortions, such as crowding-out of private funding, creating ineffective market structures or preserving inefficient companies,

⁽¹⁾ Decision 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (See page 924 of this Official Journal).

⁽²⁾ 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).

and may not be put into effect until it is approved by the Commission in accordance with Article 108(3) TFEU, unless it complies with a regulation adopted pursuant to Council Regulation (EC) No 994/98 ⁽¹⁾.

exploit synergies and ensure consistency between different Union funding sources by providing a strategic environmental and climate focus while ensuring that procedures are simplified.

- (24) In order to improve the implementation of environmental and climate policy and enhance the integration of environmental and climate objectives in other policies, the LIFE Programme should promote projects that support integrated approaches to the implementation of environmental and climate legislation and policy. Such integrated projects should serve as concrete tools for enhancing the integration of environment and climate objectives into other Union policies and into overall Union expenditure in line with the Europe 2020 strategy. They should provide examples of good practice for efficient and well-coordinated implementation of Union environmental and climate policy in Member States and regions. For the sub-programme for Environment, integrated projects should focus primarily on the implementation of the Union Biodiversity Strategy to 2020, with particular regard to the effective management and consolidation of the Natura 2000 network set up by Directive 92/43/EEC through the implementation of prioritised action frameworks prepared on the basis of Article 8 of that Directive, of Directive 2000/60/EC of the European Parliament and of the Council ⁽²⁾, and of waste and air legislation.
- (25) Integrated projects, while focusing on the themes identified, should be multi-purpose delivery mechanisms (e.g. aiming at environmental benefits and capacity-building) that make it possible to achieve results in other policy areas, in particular the marine environment in accordance with the objectives of Directive 2008/56/EC of the European Parliament and of the Council ⁽³⁾. Integrated projects could also be envisaged in other environmental areas. For the sub-programme for Climate Action, those projects should in particular concern climate change mitigation and adaptation strategies and action plans.
- (26) Integrated projects should support only a series of specific activities and measures, while other activities that complement those included in the project should be funded from other Union funding programmes, as well as from national, regional and private sector funds. Funding through the LIFE Programme should
- (27) Integrated projects, having a strong focus on implementation of Union environmental and climate legislation and policy through integrated approaches, require action in all parts of the Union and in all sectors targeted in this Regulation. This calls for the introduction of a distributional element in the selection process to facilitate geographical balance, and for Member States to endeavour, if necessary supported by a LIFE technical assistance project, to prepare and propose at least one integrated project during the LIFE programming period.
- (28) Given the novelty of the integrated project approach, stakeholders should be supported, when needed, by technical assistance. A two-stage application procedure should alleviate the application phase. In the first stage, a financial plan should indicate which other Union, national or private funding sources are to be mobilised and to what extent. Only in the second stage should letters of intent from at least one other funding source be required so as to ensure that the requirement of mobilisation of an additional funding source is fulfilled. The extent to which other Union funds are mobilised should be taken into account during the award phase.
- (29) The success of integrated projects is dependent on close cooperation between national, regional and local authorities and the non-state actors concerned by the LIFE Programme's objectives. The principles of transparency and disclosure of decisions concerning the development, implementation, assessment and monitoring of projects should therefore be applied.
- (30) For projects under the sub-programme for the Environment, other than integrated projects, a proportionate distribution of funds among all Member States for the duration of the first multiannual work programme should, in line with the principles of solidarity and responsibility sharing, be made through the establishment of indicative national allocations.
- (31) In order to build Member States' capacity to participate in the LIFE Programme, guaranteed funding for capacity-building projects should be made available to any Member State that meets the relevant requirements established by this Regulation. Such funding should be made available on the basis of an agreed capacity-building plan outlining the interventions and funding required.

⁽¹⁾ Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid (OJ L 142, 14.5.1998, p. 1).

⁽²⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽³⁾ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

- (32) Quality should serve as the overarching criterion governing the project evaluation and award process in the LIFE Programme. The distributional elements introduced for the purpose of reflecting geographical balance are of an indicative nature and should not suggest secured funds or allocations per Member State.
- (33) The Union is a party to the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation and Access to Justice in Environmental matters (the "Aarhus Convention"). The work of non-governmental organisations (NGOs) and networks of non-profit-making entities which pursue an aim of general Union interest should therefore be supported, since they are effective in supporting the aims of the Aarhus Convention by advocating the concerns and views of Union citizens as part of the policy development process as well as in supporting its implementation, and in raising awareness of environmental and climate-related problems and policy responses. It is appropriate for the LIFE Programme to support a broad range of NGOs as well as networks of non-profit-making entities which pursue an aim of general Union interest, primarily active in the field of environment or climate action, through the competitive and transparent award of operating grants, in order to help them make effective contributions to Union policy, and to promote and strengthen implementation and enforcement of Union environmental and climate objectives, as well as build up and strengthen their capacity to become more efficient partners.
- (34) In order to carry out its role in the initiation of environmental and climate policy development and implementation, the Commission should use resources from the LIFE Programme to support the initiation, implementation and mainstreaming of Union environmental and climate policy and legislation, including the purchase of services and goods. Financial resources allocated to communication activities under this Regulation should also cover corporate communication on the political priorities of the Union, as well as on the implementation and transposition status of all major Union environmental and climate legislation.
- (35) The current gap in the market between the demand for and supply of loans, equity and risk capital is likely to persist in the context of a financial crisis and, it is appropriate, therefore, to allow the use of financial instruments to support projects with revenue generating capacity in the areas of environment or climate. Financial instruments supported by the LIFE Programme should be used to address specific market needs in a cost-effective way, in line with the objectives of the Programme, and should not crowd out private financing. It should be possible to combine financial instruments with grants funded from the Union budget, including under this Regulation.
- (36) The experience of past LIFE programmes has highlighted the need to focus efforts on concrete environmental and climate policy priorities and areas for action. Those thematic priorities should not be exhaustive to allow applicants to submit proposals in other areas and to incorporate new ideas to react to new challenges. Multi-annual work programmes should also be flexible to achieve the LIFE Programme targets and objectives, while providing the necessary stability of project topics implementing the thematic priorities for potential applicants to plan, prepare and submit proposals. The first multiannual work programme should be valid for four years to be followed by a second work programme of three years' duration. Both work programmes should contain a non-exhaustive list of project topics implementing the thematic priorities.
- (37) The experience of past LIFE programmes has highlighted the importance of LIFE national contact points, in particular in providing support to applicants and beneficiaries and thereby contributing to the successful implementation of the programmes. The system of LIFE national and regional contact points should therefore be continued and, where possible, strengthened, in particular in Member States with low project uptake, and collaboration between the Commission and the LIFE national contact points and amongst LIFE national and regional contact points should be reinforced. The experience of past LIFE programmes has also highlighted the importance of ensuring the effective dissemination of project results and networking activities to increase the leverage effect and Union added value of the LIFE Programme, in particular through the organisation of seminars, workshops and other activities aiming at the exchange of experience, knowledge and good practices within the Union. The Commission should therefore continue and strengthen targeted dissemination activities, including those with a specific focus on integrated projects, in particular in Member States with low project uptake, and in relation to specific sectors, and facilitate the cooperation and exchange of experiences between LIFE beneficiaries and others. The Commission should also continue to regularly publish the list of projects financed through the LIFE Programme, including a short description of objectives and results achieved and a summary of the funds committed using appropriate media and technologies.

- (38) With a view to simplifying the LIFE Programme and reducing the administrative burden for applicants and beneficiaries, more use should be made of flat rates and lump sums without compromising the eligibility of VAT and of permanent staff costs under the conditions laid down by Regulation (EU, Euratom) No 966/2012. As per current practice, the sum of the public organisations' (as coordinating beneficiary and/or associated beneficiary) contributions to the project should exceed by at least 2 % the sum of the salary costs of the personnel of national administrations charged to the project. Union funds should not be used to subsidise national budgets, for example, to cover VAT costs. However, only limited information is available on the amounts of Union funds used to cover VAT. The Commission should, therefore, provide an overview, in the mid-term and ex-post evaluations of the LIFE Programme, of VAT reimbursements per Member State that project beneficiaries under the LIFE Programme have requested at the final payment stage.
- (39) The maximum co-financing rates should be set at such levels as are necessary to maintain the effective level of support provided by the LIFE Programme.
- (40) The LIFE Programme and its sub-programmes should be regularly monitored and evaluated based on corresponding performance indicators to allow for readjustments, including any necessary revision of the thematic priorities. When further defining the performance indicators for the assessment of programmes and projects, the Commission should place emphasis on quality monitoring on the basis of performance indicators and expected results and impacts. The Commission should also propose a method for monitoring the long-term success of projects, in particular in the priority area Nature and Biodiversity. In order to provide evidence of the co-benefits that both sub-programmes can bring to climate action and biodiversity, and to provide information on the level of spending, the monitoring of the LIFE Programme should track climate-related expenditure and biodiversity-related expenditure, as defined in "A Budget for Europe 2020". Such tracking should be based on a simple methodology by placing the expenditure in one of three categories: climate/biodiversity-related expenditure only (to be counted as 100 %), significantly climate/biodiversity-related expenditure (to be counted as 40 %), and not climate/biodiversity-related expenditure (to be counted as 0 %). That methodology should not exclude the use of more precise methodologies, where appropriate.
- (41) Given the long-standing experience of the Commission in managing the LIFE Programme and projects, and the positive experience of LIFE beneficiaries with external Monitoring Teams, management of the LIFE Programme should remain within the Commission. Any change in the management structure of the LIFE Programme and of the projects should be subject to an ex-ante cost-benefit analysis and give special consideration to ensuring adequate and comprehensive expertise, in particular in the priority area Nature and Biodiversity.
- (42) 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, unduly paid or incorrectly used and, where appropriate, penalties.
- (43) In order to secure the best possible evaluation of the use of Union funds, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of performance indicators applicable to thematic priorities for the sub-programme for Environment and the priority areas for the sub-programme for Climate Action, of modification of the thematic priorities set out in Annex III, and of increasing the percentage of the budget allocated to grants for projects supporting the conservation of nature and biodiversity. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (44) In order to ensure uniform conditions for the implementation of this Regulation relating to the adoption of the multiannual work programmes, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾
- (45) If the Committee for the LIFE Programme for the Environment and Climate Action does not deliver any opinion on a draft implementing act, the Commission should, in accordance with the second subparagraph of Article 5(4) of Regulation (EU) No 182/2011, not adopt the draft implementing act. The recourse to this procedure should be justified, inter alia, by the need to assess the proportionate distribution of funds between integrated projects, in particular the maximum amount that a single integrated project may receive.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (46) To ensure efficient transition between the measures adopted under Regulation (EC) No 614/2007 and the LIFE Programme, it is necessary to continue to monitor, audit and qualitatively assess the activities financed under that Regulation following its expiry.
- (47) The added value of the LIFE Programme derives from the specificity of its approach and focus which make its interventions particularly adapted to environmental and climate needs. The LIFE Programme can contribute to more effective implementation of environmental policies than Member States acting on their own because of increased pooling of resources and expertise. It also provides the platform for developing and exchanging best practices and knowledge, improving, catalysing, and accelerating changes in the implementation of the *acquis*, and building capacity, supporting private actors, in particular SMEs, in testing small-scale technologies and solutions, and allowing Member States and stakeholders to learn from each other. Moreover, the LIFE Programme creates synergies across Union and national funds while leveraging additional private sector funds, thereby increasing the coherence of Union intervention and promoting a more homogeneous implementation of the *acquis*.
- (48) Since the objectives of this Regulation, namely contributing to the implementation and development of Union environmental and climate policy and legislation, including the integration of the environment and climate objectives into other policies, and promoting better governance, cannot be sufficiently achieved by the Member States but can rather, by reason of scale and effects of this Regulation, 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 those objectives.
- (49) Regulation (EC) No 614/2007 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

TITLE I

THE PROGRAMME FOR THE ENVIRONMENT AND CLIMATE ACTION (LIFE)

Article 1

Establishment

A Programme for the Environment and Climate Action covering the period from 1 January 2014 to 31 December 2020 (the "LIFE Programme") is hereby established.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) "pilot projects" means projects that apply a technique or method that has not been applied or tested before, or elsewhere, that offer potential environmental or climate advantages compared to current best practice and that can subsequently be applied on a larger scale to similar situations;
- (b) "demonstration projects" means projects that put into practice, test, evaluate and disseminate actions, methodologies or approaches that are new or unknown in the specific context of the project, such as the geographical, ecological, socio-economic context, and that could be applied elsewhere in similar circumstances;
- (c) "best practice projects" means projects that apply appropriate, cost-effective and state-of-the-art techniques, methods and approaches taking into account the specific context of the project;
- (d) "integrated projects" means projects implementing on a large territorial scale, in particular, regional, multi-regional, national or trans-national scale, environmental or climate plans or strategies required by specific Union environmental or climate legislation, developed pursuant to other Union acts or developed by Member States' authorities, primarily in the areas of nature, including, inter alia, Natura 2000 network management, water, waste, air and climate change mitigation and adaptation, while ensuring involvement of stakeholders and promoting the coordination with and mobilisation of at least one other relevant Union, national or private funding source;
- (e) "technical assistance projects" means projects providing, by way of action grants, financial support to help applicants prepare integrated projects, and in particular to ensure that those projects comply with the timing, technical and financial requirements of the LIFE Programme in coordination with funds referred to in Article 8(3);
- (f) "capacity-building projects" means projects providing, by way of action grants, financial support to the activities required to build the capacity of Member States, including LIFE national or regional contact points, with a view to enabling Member States to participate more effectively in the LIFE Programme;

- (g) "preparatory projects" means projects primarily identified by the Commission in cooperation with Member States to support specific needs for the development and implementation of Union environmental or climate policy and legislation;
- (h) "information, awareness and dissemination projects" means projects aimed at supporting communication, dissemination of information and awareness raising in the fields of the sub-programmes for Environment and Climate Action.

Article 3

General objectives and performance indicators

1. The LIFE Programme shall in particular have the following general objectives:

- (a) to contribute to the shift towards a resource-efficient, low-carbon and climate-resilient economy, to the protection and improvement of the quality of the environment and to halting and reversing biodiversity loss, including the support of the Natura 2000 network and tackling the degradation of ecosystems;
- (b) to improve the development, implementation and enforcement of Union environmental and climate policy and legislation, and to act as a catalyst for, and promote, the integration and mainstreaming of environmental and climate objectives into other Union policies and public and private sector practice, including by increasing the public and private sector's capacity;
- (c) to support better environmental and climate governance at all levels, including better involvement of civil society, NGOs and local actors;
- (d) to support the implementation of the 7th Environment Action Programme.

In pursuing those objectives, the LIFE Programme shall contribute to sustainable development and to the achievement of the objectives and targets of the Europe 2020 Strategy and of relevant Union environmental and climate strategies and plans.

2. The general objectives set out in paragraph 1 shall be pursued through the following sub-programmes:

- (a) the sub-programme for Environment;
- (b) the sub-programme for Climate Action.

3. The performance of the LIFE Programme shall be assessed, in particular, against the following indicators:

- (a) as regards the general objective referred to in point (a) of paragraph 1, attributable environmental and climate

improvements. In relation to the objective of contributing to halting and reversing biodiversity loss, attributable environmental improvements shall be measured through the percentage of the Natura 2000 network restored or brought to adequate management, surface and type of ecosystems restored, and number and type of habitats and species targeted with improving conservation status;

- (b) as regards the general objectives linked to development and implementation referred to in point (b) of paragraph 1, the number of interventions developed or undertaken that implement plans, programmes or strategies pursuant to Union environmental or climate policy and legislation, and the number of interventions suitable for replication or transfer;

- (c) as regards the general objectives linked to integration and mainstreaming referred to in point (b) of paragraph 1, the number of interventions achieving synergies with or mainstreamed into other Union funding programmes, or integrated into public or private sector practice;

- (d) as regards the general objective referred to in point (c) of paragraph 1, the number of interventions to ensure better governance, dissemination of information and awareness of environmental and climate aspects.

The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to further define the performance indicators in view of their application to the priority areas and thematic priorities referred to in Article 9 and Annex III respectively as regards the sub-programme for Environment, and in Article 13 as regards the sub-programme for Climate Action.

Article 4

Budget

1. The financial envelope for the implementation of the LIFE Programme for the period from 2014 to 2020 is set at EUR 3 456 655 000 in current prices, which amounts to 0,318 % of the total amount of commitment appropriations as referred to in Regulation (EU) No 1311/2013.

The annual appropriations shall be authorised by the European Parliament and by the Council within the limits of the multi-annual financial framework.

2. The budgetary breakdown for the sub-programmes shall be as follows:

- (a) EUR 2 592 491 250 of the overall financial envelope referred to in paragraph 1 shall be allocated to the sub-programme for Environment;

- (b) EUR 864 163 750 of the overall financial envelope referred to in paragraph 1 shall be allocated to the sub-programme for Climate Action.

Article 5

Participation of third countries in the LIFE Programme

The LIFE Programme shall be open to the participation of the following countries:

- (a) European Free Trade Association (EFTA) countries which are parties to the Agreement on the European Economic Area (EEA);
- (b) candidate countries, potential candidates and acceding countries to the Union;
- (c) countries to which the European Neighbourhood Policy applies;
- (d) countries which have become members of the European Environmental Agency in accordance with Council Regulation (EC) No 933/1999 ⁽¹⁾.

Such participation shall be pursued in accordance with the conditions laid down in the respective bilateral or multilateral agreements establishing the general principles for those third countries' participation in Union programmes.

Article 6

Activities outside the Union or in overseas countries and territories

1. Without prejudice to Article 5, the LIFE Programme may finance activities outside the Union and in overseas countries and territories (OCTs) in accordance with Decision 2001/822/EC (the Overseas Association Decision), provided those activities are necessary to achieve Union environmental and climate objectives and to ensure the effectiveness of interventions carried out in Member State territories to which the Treaties apply.
2. A legal person established outside the Union may be able to participate in the projects referred to in Article 18, provided the beneficiary coordinating the project is based in the Union and the activity to be carried out outside the Union meets the requirements set out in paragraph 1 of this Article.

Article 7

International cooperation

In the course of implementing the LIFE Programme, cooperation with relevant international organisations, and with

⁽¹⁾ Council Regulation (EC) No 933/1999 of 29 April 1999 amending Regulation (EEC) No 1210/90 on the establishment of the European Environmental Agency and the European environment information and observation network (OJ L 117, 5.5.1999, p. 1).

their institutions and bodies, shall be possible where needed for the purpose of achieving the general objectives set out in Article 3.

Article 8

Complementarity

1. The Commission and the Member States shall ensure that support from the LIFE Programme is consistent with the policies and priorities of the Union and complementary to other financial instruments of the Union while also ensuring that simplification measures are implemented.

2. Operations financed under the LIFE Programme shall comply with Union and national law, including Union state aid rules. In particular, funding under the LIFE Programme which constitutes state aid within the meaning of Article 107(1) TFEU shall be notified by Member States to the Commission and may not be put into effect until it is approved by the Commission in accordance with Article 108(3) TFEU, unless it complies with a regulation adopted pursuant to Article 2(1) and Article 8 of Regulation (EC) No 994/98.

3. In accordance with their respective responsibilities, the Commission and the Member States shall ensure coordination between the LIFE Programme and the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development, and the European Maritime and Fisheries Fund, in order to create synergies, particularly in the context of integrated projects, and to support the use of solutions, methods and approaches developed under the LIFE Programme. Such coordination shall take place within the framework established by the Common Provisions Regulation and through the Common Strategic Framework and the mechanisms set out in the Partnership Agreements as required by that Regulation.

4. The Commission shall also ensure consistency and synergies, and avoid overlap between the LIFE Programme and other Union policies and financial instruments, in particular Horizon 2020 and those in the framework of the Union's external action.

TITLE II

THE SUB-PROGRAMMES

CHAPTER 1

The sub-programme for Environment

Article 9

Priority areas of the sub-programme for Environment

1. The sub-programme for Environment shall have three priority areas:

- (a) Environment and Resource Efficiency;

(b) Nature and Biodiversity;

(c) Environmental Governance and Information.

2. The priority areas referred to in paragraph 1 encompass the thematic priorities set out in Annex III.

The Commission shall be empowered to adopt delegated acts, where necessary, in accordance with Article 29 to add, delete or amend the thematic priorities set out in Annex III based on the following criteria:

- (a) the priorities set out in the 7th Environment Action Programme;
- (b) the specific objectives set out for each priority area referred to in Articles 10, 11 and 12;
- (c) the experience gathered in the implementation of the multi-annual work programme referred to in Article 24;
- (d) the experience gathered in the implementation of the integrated projects;
- (e) the priorities derived from new Union environmental legislation adopted after 23 December 2013; or
- (f) the experience gathered in the implementation of existing Union environmental legislation and policy.

The Commission shall review and, if necessary, revise the thematic priorities set out in Annex III at the latest by the mid-term evaluation of the LIFE Programme referred to in point (a) of Article 27(2).

3. At least 55 % of the budgetary resources allocated to projects supported by way of action grants under the sub-programme for Environment shall be dedicated to projects supporting the conservation of nature and biodiversity.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 in order to increase the percentage referred to in paragraph 3 of this Article by a maximum of 10 %, provided that the total funds requested over two consecutive years by way of proposals that fall under the priority area of Nature and Biodiversity and that meet minimum quality requirements exceed by more than 20 % the corresponding amount calculated for the two years preceding those years.

Article 10

Specific objectives for the priority area Environment and Resource Efficiency

The specific objectives of the sub-programme for Environment for the priority area Environment and Resource Efficiency shall in particular be:

(a) to develop, test and demonstrate policy or management approaches, best practices and solutions, including development and demonstration of innovative technologies, to environmental challenges, suitable for being replicated, transferred or mainstreamed, including with respect to the link between the environment and health, and in support of resource efficiency-related policy and legislation, including the Roadmap to a Resource Efficient Europe;

(b) to support the application, development, testing and demonstration of integrated approaches for the implementation of plans and programmes pursuant to Union environmental policy and legislation, primarily in the areas of water, waste and air;

(c) to improve the knowledge base for the development, implementation, assessment, monitoring and evaluation of Union environmental policy and legislation, and for the assessment and monitoring of the factors, pressures and responses that impact on the environment within and outside the Union.

Article 11

Specific objectives for the priority area Nature and Biodiversity

The specific objectives of the sub-programme for Environment for the priority area Nature and Biodiversity shall in particular be:

(a) to contribute to the development and implementation of Union policy and legislation in the area of nature and biodiversity, including the Union Biodiversity Strategy to 2020, and Directives 92/43/EEC and 2009/147/EC, in particular by applying, developing, testing and demonstrating approaches, best practices and solutions;

(b) to support the further development, implementation and management of the Natura 2000 network set up under Article 3 of Directive 92/43/EEC, in particular the application, development, testing and demonstration of integrated approaches for the implementation of the prioritised action frameworks prepared on the basis of Article 8 of that Directive;

(c) to improve the knowledge base for the development, implementation, assessment, monitoring and evaluation of Union nature and biodiversity policy and legislation, and for the assessment and monitoring of the factors, pressures and responses that impact on nature and biodiversity within and outside the Union.

Article 12

Specific objectives for the priority area Environmental Governance and Information

The specific objectives of the sub-programme for Environment for the priority area Environmental Governance and Information shall in particular be:

- (a) to promote awareness raising on environmental matters, including generating public and stakeholder support of Union policy-making in the field of the environment, and to promote knowledge on sustainable development and new patterns for sustainable consumption;
- (b) to support communication, management, and dissemination of information in the field of the environment, and to facilitate knowledge sharing on successful environmental solutions and practice, including by developing cooperation platforms among stakeholders and training;
- (c) to promote and contribute to more effective compliance with and enforcement of Union environmental legislation, in particular by promoting the development and dissemination of best practices and policy approaches;
- (d) to promote better environmental governance by broadening stakeholder involvement, including NGOs, in consultation on and implementation of policy.

CHAPTER 2

The sub-programme for Climate Action

Article 13

Priority areas of the sub-programme for Climate Action

The sub-programme for Climate Action shall have three priority areas:

- (a) Climate Change Mitigation;
- (b) Climate Change Adaptation;
- (c) Climate Governance and Information.

Article 14

Specific objectives for the priority area Climate Change Mitigation

With a view to contributing to the reduction of greenhouse gas emissions, the priority area Climate Change Mitigation shall in particular have the following specific objectives:

- (a) to contribute to the implementation and development of Union policy and legislation on climate change mitigation, including mainstreaming across policy areas, in particular by developing, testing and demonstrating policy or management approaches, best practices and solutions for climate change mitigation;
- (b) to improve the knowledge base for the development, assessment, monitoring, evaluation and implementation of

effective climate change mitigation actions and measures and to enhance the capacity to apply that knowledge in practice;

- (c) to facilitate the development and implementation of integrated approaches, such as for climate change mitigation strategies and action plans, at local, regional or national level;
- (d) to contribute to the development and demonstration of innovative climate change mitigation technologies, systems, methods and instruments that are suitable for being replicated, transferred or mainstreamed.

Article 15

Specific objectives for the priority area Climate Change Adaptation

With a view to contributing to supporting efforts leading to increased resilience to climate change, the priority area Climate Change Adaptation shall in particular have the following specific objectives:

- (a) to contribute to the development and implementation of Union policy on climate change adaptation, including mainstreaming across policy areas, in particular by developing, testing and demonstrating policy or management approaches, best practices and solutions for climate change adaptation, including, where appropriate, ecosystem-based approaches;
- (b) to improve the knowledge base for the development, assessment, monitoring, evaluation and implementation of effective climate change adaptation actions and measures, prioritising, where appropriate, those applying an ecosystem-based approach, and to enhance the capacity to apply that knowledge in practice;
- (c) to facilitate the development and implementation of integrated approaches, such as for climate change adaptation strategies and action plans, at local, regional or national level, prioritising, where appropriate, ecosystem-based approaches;
- (d) to contribute to the development and demonstration of innovative climate change adaptation technologies, systems, methods and instruments that are suitable for being replicated, transferred or mainstreamed.

Article 16

Specific objectives for the priority area Climate Governance and Information

The specific objectives of the priority area Climate Governance and Information shall in particular be:

- (a) to promote awareness raising on climate matters, including generating public and stakeholder support of Union policy-making in the field of the climate, and to promote knowledge on sustainable development;

- (b) to support communication, management, and dissemination of information in the field of the climate and to facilitate knowledge sharing on successful climate solutions and practice, including by developing cooperation platforms among stakeholders and training;
- (c) to promote and contribute to more effective compliance with and enforcement of Union climate legislation, in particular by promoting the development and dissemination of best practices and policy approaches;
- (d) to promote better climate governance by broadening stakeholder involvement, including NGOs, in consultation on and implementation of policy.

TITLE III

COMMON IMPLEMENTING PROVISIONS

CHAPTER 1

Funding

Article 17

Types of funding

1. Union funding may take the following legal forms:
 - (a) grants;
 - (b) public procurement contracts;
 - (c) contributions to financial instruments in accordance with provisions on financial instruments under Regulation (EU, Euratom) No 966/2012, in particular Articles 139 and 140 thereof, and with operational requirements set out in specific Union acts;
 - (d) any other interventions needed for the purpose of achieving the general objectives set out in Article 3.
2. The Commission shall implement this Regulation in accordance with Regulation (EU, Euratom) No 966/2012.
3. Funding under this Regulation which constitutes state aid within the meaning of Article 107(1) TFEU shall be implemented in a way consistent with the relevant Union state aid rules.
4. At least 81 % of the budgetary resources for the LIFE Programme shall be allocated to projects supported by way of action grants or, where appropriate, financial instruments as referred to in point (c) of paragraph 1.

The Commission may include those financial instruments as part of the multiannual work programme referred to in Article 24, subject to an ex-ante evaluation as referred to in point (f) of Article 140(2) of Regulation (EU, Euratom) No 966/2012.

5. A maximum of 30 % of the budgetary resources allocated to action grants in accordance with paragraph 4 may be allocated to integrated projects. That maximum percentage shall be re-evaluated in the framework of the mid-term evaluation of the LIFE Programme referred to in point (a) of Article 27(2) and accompanied, if appropriate, by a legislative proposal.

Article 18

Projects

Action grants may finance the following projects:

- (a) pilot projects;
- (b) demonstration projects;
- (c) best practice projects;
- (d) integrated projects;
- (e) technical assistance projects;
- (f) capacity-building projects;
- (g) preparatory projects;
- (h) information, awareness, and dissemination projects;
- (i) any other projects needed for the purpose of achieving the general objectives set out in Article 3.

Article 19

Eligibility and award criteria and project selection

1. Projects referred to in Article 18 shall satisfy the eligibility criteria based on the definitions set out in Article 2 and the following award criteria:
 - (a) being of Union interest by making a significant contribution to the achievement of one of the general objectives of the LIFE Programme set out in Article 3 as well as the specific objectives for the priority areas listed in Article 9, the thematic priorities set out in Annex III, or the specific objectives for the priority areas listed in Article 13;
 - (b) ensuring a cost-effective approach and being technically and financially coherent; and
 - (c) being sound in the proposed implementation.

2. The award of projects shall be subject to the projects meeting minimum quality requirements in conformity with the relevant provisions of Regulation (EU, Euratom) No 966/2012.

3. Projects financed by the LIFE Programme under one priority area shall avoid undermining environmental or climate objectives in another priority area and, where possible, promote synergies between different objectives as well as the use of green public procurement.

4. The Commission shall ensure geographical balance for integrated projects by indicatively allocating at least three integrated projects to each Member State, ensuring at least one integrated project under the sub-programme for Environment and at least one integrated project under the sub-programme for Climate Action during the LIFE programming period referred to in Article 1.

Integrated projects shall be distributed with a view to meeting the targets set in accordance with point (c) of Article 24(2) for each of the areas referred to in point (d) of Article 2.

In order to evaluate compliance with the provision of mobilisation of Union, national or private funds referred to in point (d) of Article 2, proposals for integrated projects shall be accompanied by:

- (a) at the first stage of the application process: a financial plan; and
- (b) at the second stage of the application process: at least one letter of intent indicating the extent to which other relevant Union, national or private funding sources are to be mobilised, and specifying such sources of funding.

5. The Commission shall, for the duration of the first multiannual work programme, ensure geographical balance for projects other than integrated projects submitted under the sub-programme for Environment, by proportionately distributing funds among all Member States according to indicative national allocations established in accordance with the criteria set out in Annex I. Where indicative national allocations are not applicable, projects shall be selected exclusively on the basis of merit.

6. If the sum of co-financing that is necessary for funding projects, other than integrated projects, that are submitted by a Member State, and that are on the list compiled by the Commission at the end of the selection procedure is less than the indicative allocation for that Member State, the Commission shall, subject to the conditions laid down in paragraphs 1 and 2 being met, use the balance of that indicative national allocation to co-finance those projects submitted by other Member States, excluding projects in OCTs, that make the greatest contribution to the achievement of the general objectives set out in Article 3.

When presenting the list of projects to be co-financed, the Commission shall report to the Committee for the LIFE Programme for the Environment and Climate Action on how it took into account the allocation criteria established in accordance with paragraphs 4 and 5.

7. The Commission shall have special regard to transnational projects where transnational cooperation is essential to guarantee environmental protection and climate objectives, and shall endeavour to ensure that at least 15 % of the budgetary resources dedicated to projects are allocated to transnational projects. The Commission shall consider the award of funding to transnational projects even in cases where the indicative national allocation balance of one or more Member States participating in those transnational projects has been exceeded.

8. During the first multiannual work programme, a Member State shall be eligible for funding for one capacity-building project up to an amount of EUR 1 000 000 provided it meets one of the following criteria:

- (a) the Member State's average absorption level of its indicative national allocation for the years 2010, 2011 and 2012, as established under Article 6 of Regulation (EC) No 614/2007, is below 70 %;
- (b) the Member State's GDP per capita in 2012 was below 90 % of the Union average; or
- (c) the Member State acceded to the Union after 1 January 2013.

During the second multiannual work programme, a Member State shall be eligible for funding for one capacity-building project up to an amount of EUR 750 000 provided it meets the following criteria:

- (a) the Member State's average absorption level of its indicative national allocation for the years 2014, 2015 and 2016, referred to in paragraph 5, is below 70 %; and
- (b) the Member State's average absorption level of its indicative national allocation for the years 2014, 2015 and 2016 has increased compared to the average absorption level for the years 2010, 2011 and 2012.

In order to be eligible for funding for capacity-building projects, a Member State shall commit to maintaining resources dedicated to the LIFE Programme, including inter alia staffing levels, at levels that are no lower than those in place in 2012, for the duration of the relevant multiannual work programme. That commitment shall be set out in the capacity-building plan referred to in paragraph 9.

By way of exception to the eligibility provisions of the first and second subparagraphs and for the entire duration of the LIFE Programme, a Member State shall be ineligible for funding for capacity-building projects if its GDP per capita in 2012 was above 105 % of the Union average. Funding for capacity-building projects shall be limited to one project per Member State per multiannual work programme.

9. The Commission shall establish a fast-track award procedure for all capacity-building projects. Applications for such capacity-building projects may be submitted as from 23 December 2013. Applications shall be based on a capacity-building plan to be agreed between the Member State and the Commission outlining the interventions to be funded by the LIFE Programme in order to develop the Member State's capacity to submit successful applications for funding for projects under the sub-programmes for Environment and Climate Action. Such interventions may include, but shall not be limited to:

- (a) recruitment of new personnel and training for LIFE national or regional contact points;
- (b) facilitating exchanges of experience and best practices and promoting the dissemination and use of results of projects under the LIFE Programme;
- (c) 'train the trainer' approaches;
- (d) exchange and secondment programmes between public authorities in Member States, in particular 'best in class' exchange activities.

The interventions covered by the capacity-building plan may include the procurement of experts to address ad-hoc gaps in technical and process capability, but may not include the procurement of experts whose primary function is the drafting of proposals for submission under the annual calls for proposals.

The capacity-building plan shall also outline estimates for the costs of such interventions.

Article 20

Co-financing rates and eligibility of costs for projects

1. The maximum co-financing rates for the projects referred to in Article 18 shall be:

- (a) for the duration of the first multiannual work programme, up to 60 % of eligible costs for all projects, other than those specified in point (c), funded under both sub-programmes for Environment and Climate Action;
- (b) for the duration of the second multiannual work programme, up to 55 % of eligible costs for all projects, other than those specified in point (c), funded under both sub-programmes for Environment and Climate Action;
- (c) for the entire duration of the LIFE Programme:
 - (i) up to 60 % of eligible costs for projects referred to in points (d), (e) and (g) of Article 18;
 - (ii) subject to point (iii), up to 60 % of eligible costs for projects funded under the priority area Nature and Biodiversity in the sub-programme for Environment;

- (iii) up to 75 % of eligible costs for projects funded under the priority area Nature and Biodiversity in the sub-programme for Environment that concern priority habitats or species for the implementation of Directive 92/43/EEC or the species of birds considered as a priority for funding by the Committee for Adaptation to Technical and Scientific Progress set up pursuant to Article 16 of Directive 2009/147/EC when necessary to achieve the conservation objective;

- (iv) up to 100 % of eligible costs for projects referred to in point (f) of Article 18.

2. Conditions for the eligibility of costs are laid down in Article 126 of Regulation (EU, Euratom) No 966/2012. Such costs shall include VAT and staff costs.

The Commission shall provide an overview, in the mid-term and ex-post evaluations of the LIFE Programme, of VAT reimbursements per Member State that project beneficiaries under the LIFE Programme have requested at the final payment stage.

3. Costs relating to the purchase of land shall be considered eligible for Union financing for projects referred to in Article 18 provided that:

- (a) the purchase will contribute to improving, maintaining and restoring the integrity of the Natura 2000 network set up under Article 3 of Directive 92/43/EEC, including through improving connectivity by the creation of corridors, stepping stones, or other elements of green infrastructure;
- (b) land purchase is the only or most cost-effective way of achieving the desired conservation outcome;
- (c) the land purchased is reserved in the long term for uses consistent with the objectives set out in Articles 11, 14 or 15; and
- (d) the Member State concerned shall, by way of transfer or otherwise, ensure the long-term assignment of such land to nature conservation purposes.

Article 21

Operating grants

1. Operating grants shall support certain operational and administrative costs of non-profit making entities which pursue an aim of general Union interest, are primarily active in the field of environment or climate action and are involved in the development, implementation and enforcement of Union policy and legislation.

2. The maximum rate of Union co-financing for operating grants referred to in paragraph 1 shall be 70 % of eligible costs.

Article 22

Other types of activities

The LIFE Programme may finance activities implemented by the Commission in support of the initiation, implementation and mainstreaming of Union environmental and climate policies and legislation for the purpose of achieving the general objectives set out in Article 3. Such activities may include:

- (a) information and communication, including awareness raising campaigns. Financial resources allocated to communication activities pursuant to this Regulation shall also cover corporate communication regarding the political priorities of the Union, as well as regarding the implementation and transposition status of all major Union environmental and climate legislation;
- (b) studies, surveys, modelling and scenario building;
- (c) preparation, implementation, monitoring, checking and evaluation of projects, policies, programmes and legislation;
- (d) workshops, conferences and meetings;
- (e) networking and best-practice platforms;
- (f) any other activities needed for the purpose of achieving the general objectives referred to in Article 3.

Article 23

Beneficiaries

The LIFE Programme may fund public and private bodies.

With a view to ensuring the visibility of the LIFE Programme, the beneficiaries shall publicise the LIFE Programme and the results of their projects, always mentioning the Union support received. The LIFE Programme logo, depicted in Annex II, shall be used for all communication activities and appear on notice boards at strategic places visible to the public. All durable goods acquired in the framework of the LIFE Programme shall bear the LIFE Programme logo except in cases specified by the Commission.

CHAPTER 2

Implementing measures

Article 24

Multiannual work programmes

1. The Commission shall, by means of implementing acts, adopt multiannual work programmes for the LIFE Programme. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30(2).

The duration of the first multiannual work programme shall be four years and the duration of the second multiannual work programme shall be three years.

2. Each multiannual work programme shall specify, in line with the general objectives set out in Article 3, the following:

- (a) the allocation of funds between priority areas and between different types of funding within each sub-programme in conformity with Articles 9(3), 17(4) and 17(5). No further pre-allocation for project action grants between or within each priority area shall take place, with the exception of technical assistance projects and capacity-building projects;
- (b) the project topics implementing the thematic priorities set out in Annex III for projects to be financed for the period covered by the multiannual work programme;
- (c) qualitative and quantitative outcomes, indicators and targets for each priority area and type of projects for the period covered by the multiannual work programme in accordance with the performance indicators pursuant to Article 3(3) and the specific objectives set out for each priority area in Articles 10, 11, 12, 14, 15 and 16;
- (d) the technical methodology for the project selection procedure and selection and award criteria for grants in conformity with Articles 2 and 19 of this Regulation and the relevant provisions of Regulation (EU, Euratom) No 966/2012;
- (e) indicative timetables for the calls for proposals for the period covered by the multiannual work programme.

3. In the framework of the multiannual work programmes the Commission shall publish annual calls for proposals for the priority areas listed in Article 9(1) and Article 13. The Commission shall ensure that unused funds in a given call for proposals are reallocated between the different types of projects referred to in Article 18.

4. The Commission shall, by means of an implementing act, review the multiannual work programme at the latest by the mid-term evaluation of the LIFE Programme. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 30(2).

Article 25

Methods of implementation

The Commission shall implement the activities in pursuit of the general objectives set out in Article 3 of this Regulation in accordance with the methods of implementation of the budget set out in Article 58 of Regulation (EU, Euratom) No 966/2012, in particular direct or indirect management by the Commission on a centralised basis, or joint management with international organisations.

Article 26

Administrative and technical assistance

The financial allocation of the LIFE Programme may also cover necessary expenditure relating to preparatory, monitoring, control, audit, communication and evaluation activities required directly for the management of the LIFE Programme and the achievement of its general objectives set out in Article 3.

The Commission shall, on a regular basis and in collaboration with the LIFE national contact points, organise seminars and workshops, publish lists of projects funded under the LIFE Programme or undertake other activities to facilitate exchanges of experience, knowledge and best practices on all projects and the replication and transfer of project results across the Union. To that end, the Commission shall undertake activities targeting the dissemination of project results amongst LIFE beneficiaries and others with a specific focus, where relevant, on Member States with a low uptake of LIFE funds and shall facilitate the communication and cooperation between completed or ongoing projects with new project beneficiaries, applicants or stakeholders in the same field.

The Commission shall also organise specific seminars, workshops or, where appropriate, other types of activities at least every two years to facilitate exchanges of experience, knowledge and best practices as regards the design, preparation and implementation of integrated projects as well as on the effectiveness of the assistance provided through technical assistance projects. Those activities shall involve national or regional administrations managing other Union funds and other relevant stakeholders.

Article 27

Monitoring and evaluation

1. The Commission shall regularly monitor and report on the implementation of the LIFE Programme (and its sub-programmes), including the amount of climate-related expenditure and biodiversity-related expenditure. It shall also assess synergies between the LIFE Programme and other complementary Union programmes, and in particular between its sub-programmes.

The Commission shall calculate indicative national allocations, in accordance with the criteria set out in Annex I, for the duration of the second multiannual work programme exclusively for the purposes of benchmarking Member States' performance.

2. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions the following reports:

(a) no later than 30 June 2017, an external and independent mid-term evaluation report of the LIFE Programme (and its sub-programmes), including qualitative and quantitative aspects of its implementation, the amount of climate-related expenditure and biodiversity-related expenditure, the extent to which synergies between the objectives have been reached, and its complementarity with other relevant Union programmes, the achievement of the objectives of all the measures (at the level of results and impacts, when possible), the efficiency of the use of resources and the Union added value of the Programme, with a view to taking a decision on the renewal, modification or suspension of the measures. That mid-term evaluation report shall also include a quantitative and qualitative analysis of the contribution of the LIFE Programme to the conservation status of habitats and species listed under Directives 92/43/EEC and 2009/147/EC. The evaluation shall additionally address the scope for simplification, its internal and external coherence, the continued relevance of all objectives, as well as the contribution of the measures under the LIFE Programme to the Europe 2020 Strategy objectives and targets and to sustainable development. It shall take into account evaluation results on the long-term impact of LIFE+. The mid-term evaluation report shall be accompanied by remarks by the Commission including the manner in which the findings of the mid-term evaluation shall be taken into account when implementing the LIFE Programme, and, in particular, the extent to which the thematic priorities set out in Annex III need to be modified.

The mid-term evaluation report shall contain or be accompanied by a thorough assessment of the extent and quality of the demand for, planning and implementation of integrated projects. A special focus shall be given to the realised or expected success of integrated projects in leveraging other Union funds, taking into account, in particular, the benefits of increased coherence with other Union funding instruments, the extent to which stakeholders have been involved and the extent to which previous projects under LIFE+ have been or are expected to be covered by integrated projects.

(b) no later than 31 December 2023, an external and independent ex-post evaluation report covering the implementation and results of the LIFE Programme (and its sub-programmes), including the amount of climate-related expenditure and biodiversity-related expenditure, the extent to which the LIFE Programme as a whole, and each of its sub-programmes, has achieved its objectives, the extent to

which synergies between the various objectives have been realised, and the contribution of the LIFE Programme to achieving the Europe 2020 Strategy objectives and targets. The ex-post evaluation report shall also examine the extent to which integration of environment and climate objectives into other Union policies has been achieved and, to the extent possible, the economic benefit achieved through the LIFE Programme as well as the impact and added value for the communities involved.

3. The Commission shall make the results of the evaluations undertaken pursuant to this Article publicly available.

Article 28

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures to ensure that, where activities financed under this Regulation 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 unduly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks, over all beneficiaries, contractors and subcontractors who have received Union funds under the LIFE Programme.

The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ 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 concerning Union funding.

Without prejudice to the first and second subparagraphs, cooperation agreements with third countries and international organisations and grant agreements, grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections.

3. Beneficiaries of Union funds shall keep available to the Commission, for a period of five years following the last payment in respect of any project, all supporting documents regarding the expenditure on that project.

⁽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).

TITLE IV

FINAL PROVISIONS

Article 29

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 3(3), 9(2) and 9(4) shall be conferred on the Commission for a period of seven years from 23 December 2013.

3. The delegation of power referred to in Articles 3(3), 9(2) and 9(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 3(3), 9(2) and 9(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 30

Committee procedure

1. The Commission shall be assisted by the Committee for the LIFE Programme for the Environment and Climate Action. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 31

Repeal

Regulation (EC) No 614/2007 is repealed with effect from 1 January 2014.

References to the repealed Regulation shall be construed as references to this Regulation.

*Article 32***Transitional measures**

1. Notwithstanding the first paragraph of Article 31, measures started before 1 January 2014 pursuant to Regulation (EC) No 614/2007 shall, until their completion, continue to be governed by that Regulation and shall comply with the technical provisions defined therein. The Committee referred to in Article 30(1) of this Regulation shall replace the Committee referred to in Article 13(1) of Regulation (EC) No 614/2007 from 23 December 2013.

2. The financial allocation for the LIFE Programme may also cover technical and administrative assistance expenses, including any obligatory monitoring, communication and evaluation required pursuant to Regulation (EC) No 614/2007 following its expiry, to ensure the transition between the measures adopted pursuant to Regulation (EC) No 614/2007 and the LIFE Programme.

3. The amounts needed within the financial envelope to provide for monitoring, communication and auditing measures in the period following 31 December 2020 shall be deemed to be confirmed only if they are consistent with the financial framework applicable from 1 January 2021.

4. The appropriations corresponding to assigned revenue arising from the repayment of amounts wrongly paid pursuant to Regulation (EC) No 614/2007 shall be used, in accordance with Article 21 of Regulation (EU, Euratom) No 966/2012, to finance the LIFE Programme.

*Article 33***Entry into force**

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

ANNEX I

Criteria for establishing indicative national allocations for projects, other than integrated projects, submitted under the sub-programme for Environment

In line with the principles of solidarity and responsibility sharing, the Commission shall allocate funds among all Member States for the LIFE programming period referred to in Article 1 for projects, other than integrated projects, based on the following criteria:

(a) Population

- (i) total population of each Member State (50 % weighting); and
- (ii) population density of each Member State, up to a limit of twice the Union's average population density (5 % weighting)

(b) Nature and Biodiversity

- (i) total area of Natura 2000 sites for each Member State expressed as a proportion of the total area of Natura 2000 (25 % weighting); and
 - (ii) proportion of a Member State's territory covered by Natura 2000 sites (20 % weighting).
-

ANNEX II

The LIFE Programme logo



ANNEX III

Thematic priorities for the sub-programme for Environment referred in Article 9

A. Priority area Environment and Resource Efficiency:

- (a) Thematic priorities for Water, including the marine environment: activities for the implementation of the specific objectives for water set out in the Roadmap for a Resource-Efficient Europe and the 7th Environment Action Programme, in particular:
- (i) integrated approaches for the implementation of Directive 2000/60/EC;
 - (ii) activities for the implementation of Directive 2007/60/EC of the European Parliament and of the Council ⁽¹⁾;
 - (iii) activities for the implementation of the programme of measures of Directive 2008/56/EC with a view to achieving good environmental status of marine waters;
 - (iv) activities to ensure safe and efficient use of water resources, improving quantitative water management, preserving a high level of water quality and avoiding misuse and deterioration of water resources.
- (b) Thematic priorities for Waste: activities for the implementation of the specific objectives for waste set out in the Roadmap for a Resource-Efficient Europe and the 7th Environment Action Programme, in particular:
- (i) integrated approaches for the implementation of waste plans and programmes;
 - (ii) activities for the implementation and development of Union waste legislation, with particular emphasis on the first steps of the Union waste hierarchy (prevention, re-use and recycling);
 - (iii) activities for resource efficiency and lifecycle impact of products, consumption patterns and dematerialisation of the economy.
- (c) Thematic priorities for Resource Efficiency, including soil and forests, and green and circular economy: activities for the implementation of the Roadmap for a Resource-Efficient Europe and of the 7th Environment Action Programme that are not covered by other thematic priorities referred to in this Annex, in particular:
- (i) activities for industrial symbiosis and knowledge transfer, and development of new models for the shift towards a circular and green economy;
 - (ii) activities for the Soil Thematic Strategy (Commission Communication of 22 September 2006 entitled "Thematic Strategy for Soil Protection") with special emphasis on mitigation and compensation of soil sealing, and improved land use;
 - (iii) activities for forest monitoring and information systems, and to prevent forest fires.
- (d) Thematic priorities for Environment and Health, including chemicals and noise: support activities for the implementation of the specific objectives for environment and health set out in the 7th Environment Action Programme, in particular:
- (i) support activities for the implementation of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽²⁾ (REACH) and Regulation (EU) No 528/2012 of the European Parliament and of the Council ⁽³⁾ (Biocidal Products Regulation) to ensure a safer, more sustainable or economical use of chemicals (including nanomaterials);

⁽¹⁾ Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks (OJ L 288, 6.11.2007, p. 27).

⁽²⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 27).

⁽³⁾ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

- (ii) support activities to facilitate the implementation of Directive 2002/49/EC of the European Parliament and of the Council ⁽¹⁾ (Noise Directive) in order to achieve noise levels that do not give rise to significant negative impacts on and risks to human health;
 - (iii) support activities for avoiding major accidents in particular facilitating the implementation of Directive 2012/18/EU of the European Parliament and of the Council ⁽²⁾ (Seveso III Directive).
- (e) Thematic priorities for Air quality and emissions, including urban environment: support activities for the implementation of the specific objectives for air and emissions in the Roadmap for a Resource-Efficient Europe and the 7th Environment Action Programme, in particular:
- (i) integrated approaches to the implementation of Air quality legislation;
 - (ii) support activities to facilitate compliance with Union air quality and related air emissions standards including Directive 2001/81/EC of the European Parliament and the Council ⁽³⁾ (National Emissions Ceilings Directive);
 - (iii) support activities for the enhanced implementation of Directive 2010/75/EU of the European Parliament and of the Council ⁽⁴⁾ (Industrial Emissions Directive) with a special emphasis on improving the process of defining and implementing best available techniques, ensuring easy public access to information and enhancing the contribution of the Industrial Emissions Directive to innovation.
- B. Priority area Nature and Biodiversity:
- (a) Thematic priorities for Nature: activities for the implementation of Directives 92/43/EEC and 2009/147/EC, in particular:
- (i) activities aimed at improving the conservation status of habitats and species, including marine habitats and species, and bird species, of Union interest;
 - (ii) activities in support of the Natura 2000 network bio-geographical seminars;
 - (iii) integrated approaches for the implementation of prioritised action frameworks.
- (b) Thematic priorities for Biodiversity: activities for the implementation of the Union Biodiversity Strategy to 2020, in particular:
- (i) activities aimed at contributing to the achievement of Target 2;
 - (ii) activities aimed at contributing to the achievement of Targets 3, 4 and 5.
- C. Priority area Environmental Governance and Information
- (a) information, communication and awareness raising campaigns in line with the priorities of the 7th Environment Action Programme;
- (b) activities in support of effective control process as well as measures to promote compliance in relation to Union environmental legislation, and in support of information systems and information tools on the implementation of Union environmental legislation.

⁽¹⁾ Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (OJ L 189, 18.7.2002, p. 12).

⁽²⁾ Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC (OJ L 197, 24.7.2012, p. 1).

⁽³⁾ Directive 2001/81/EC of the European Parliament and the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants (OJ L 309, 27.11.2001, p. 22).

⁽⁴⁾ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

Commission statements

Maximum amount that a single IP may receive

The Commission attaches high importance to ensuring a proportionate distribution of funds among integrated projects in order to fund as many integrated projects as possible and guarantee a balanced distribution of integrated projects among all Member States. In this context, the Commission will propose when discussing the draft work programme with the members of the LIFE committee the maximum amount that a single integrated project may receive. This proposal will be submitted as part of the methodology for project selection to be adopted as part of the multiannual work programme.

Status of funding Biodiversity in OCTs

The Commission attaches high importance to the protection of environment and biodiversity in Overseas Countries and Territories, as is illustrated by the Overseas Association Decision proposal which includes these sectors in the areas of cooperation between the European Union and OCTs and outlines the different actions which could be eligible for funding by the European Union in this regard.

The BEST preparatory action has been a successful initiative that has been embraced by OCTs and has delivered tangible results for biodiversity and ecosystem services. As BEST is drawing to a close, the Commission is favourably considering following up on it under one of the new instruments, namely Global Public Goods and Challenges programme under the Development Cooperation Instrument.

This specific possibility for funding biodiversity in OCTs will be complemented by the opportunities offered under Article 6 of the LIFE programme for the period 2014-2020.

**REGULATION (EU) No 1294/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

**establishing an action programme for customs in the European Union for the period 2014-2020
(Customs 2020) and repealing Decision No 624/2007/EC**

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 33 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

(1) The multi-annual action programme for customs which applied before 2014 has significantly contributed to facilitating and enhancing cooperation between customs authorities within the Union. Many of the activities in the customs area are of a cross-border nature, involving and affecting all Member States, and therefore they cannot be effectively and efficiently delivered by individual Member States. A customs programme at Union level, implemented by the Commission, offers Member States a Union framework to develop those cooperation activities, which is more cost-efficient than if each Member State were to set up individual cooperation frameworks on a bilateral or multilateral basis. It is therefore appropriate to ensure the continuation of the previous multi-annual action programme for customs by establishing a new programme in the same area, the Customs 2020 programme ('the Programme').

(2) The activities under the Programme, namely the European Information Systems, the joint actions for customs officials and the common training initiatives, will contribute to the realisation of the Europe 2020 Strategy for smart, sustainable and inclusive growth by strengthening the functioning of the internal market. In providing a framework for activities which strive for more efficient and modernised customs authorities, strengthen the competitiveness of businesses, promote

employment and rationalise and coordinate the Member States' actions to protect their financial and economic interests and those of the Union, the Programme will actively strengthen the functioning of the customs union, so that businesses and citizens can benefit from the full potential of the internal market and of global trade.

(3) In order to support the process of accession and association by third countries, the Programme should be open to the participation of acceding and candidate countries as well as potential candidates and partner countries of the European Neighbourhood Policy if certain conditions are fulfilled. Considering the increasing interconnectivity of the world economy, the Programme should continue to provide the possibility of involving external experts, such as officials of third countries, representatives of international organisations or economic operators in certain activities. The participation of external experts is considered to be essential whenever the objectives of a programme cannot be achieved without the contribution of those experts. The setting up of the European External Action Service under the authority of the High Representative of the Union for Foreign Affairs and Security Policy facilitates policy coordination and coherence in an area which is a relevant component of the Union's external strategies and actions, both on a bilateral and multilateral basis.

(4) The objectives of the Programme should take into account the problems and challenges identified for customs in the next decade. The Programme should continue to play a role in vital areas such as the coherent implementation of Union law in the field of customs and related matters. Moreover, the Programme should focus on protecting the financial and economic interests of the Union and safeguarding safety and security. This should encompass, inter alia, cooperation and information pooling between national and Union market monitoring authorities and the customs authorities. The Programme should also be dedicated to trade facilitation, inter alia, through collaborative efforts to fight fraud and increasing the administrative capacity of customs authorities. In that perspective, a cost-benefit analysis of detection equipment and related technology should be carried out in order to facilitate the acquisition of modern customs control tools by customs authorities after 2020. Methods facilitating the acquisition of modern customs control tools, including joint public procurement, should also be explored.

(5) The programme tools which applied before 2014 have proven to be adequate and should therefore be retained. In view of the need for more structured operational cooperation, additional tools should be added, namely expert teams composed of Union and national experts

⁽¹⁾ Position of the European Parliament of 21 November 2013 (not yet published in the Official Journal)

to perform tasks jointly in specific domains and public administration capacity-building actions which should provide specialised assistance to those participating countries in need of administrative capacity building.

- (6) The European Information Systems play a vital role in reinforcing the customs systems within the Union and should therefore continue to be financed under the Programme. In addition, it should be made possible to include in the Programme new customs-related information systems established under Union law. The European Information Systems should, where appropriate, be based upon shared development models and IT architecture, in order to increase the flexibility and efficiency of customs administration.
- (7) Human competency building should also be carried out in the form of common training and should be realised through the Programme. Customs officials need to build up and update their knowledge and the skills required to serve the needs of the Union. The Programme should be essential to strengthen human capacities through enhanced training support that targets customs officials as well as economic operators. To that end, the current common training approach of the Union, which was mainly based on central eLearning development, should develop into a multifaceted training support programme for the Union.
- (8) The Programme should give due importance, and allocate an adequate share of its budget, to the functioning of the existing European Information Systems for customs and to the development of new European Information Systems necessary for the implementation of the Union Customs Code. At the same time, the appropriate means should be dedicated to activities bringing together officials working with customs and to human competency building. Moreover, the Programme should provide for a certain degree of budgetary flexibility in order to respond to changes in policy priorities.
- (9) The Programme should cover a period of seven years to align its duration with that of the multiannual financial framework laid down in Council Regulation (EU, Euratom) No 1311/2013 ⁽¹⁾.
- (10) This Regulation lays down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council

and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽²⁾, for the European Parliament and the Council during the annual budgetary procedure.

- (11) In line with the Commission's commitment, set out in its Communication of 19 October 2010 entitled 'The EU Budget Review', to coherence and simplification of funding programmes, resources should be shared with other Union funding instruments if the envisaged activities under the Programme pursue objectives which are common to various funding instruments, excluding however double financing. Actions under the Programme should ensure coherence in the use of the Union's resources supporting the functioning of the customs union.
- (12) The measures necessary for the financial implementation of this Regulation should be adopted in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾ and with Commission Delegated Regulation (EU) No 1268/2012 ⁽⁴⁾.
- (13) The financial interests of the Union should be protected through appropriate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, unduly paid or incorrectly used, and, where appropriate, penalties.
- (14) Cooperation on intelligent risk assessment is vital in order to allow compliant and trustworthy businesses to gain maximum benefit from the simplification of the e-administration of customs, and allowing irregularities to be targeted.
- (15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the annual work programmes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁵⁾.

⁽²⁾ OJ C 373, 20.12.2013, p. 1.

⁽³⁾ 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).

⁽⁴⁾ 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).

⁽⁵⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽¹⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the year 2014-2020 (See page 884 of this Official Journal).

(16) In order to respond appropriately to changes in policy priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of indicators to measure the achievement of the specific objectives and modifying the indicative amounts allocated to each type of action. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(17) Since the objective of this Regulation, namely establishing a multiannual programme to improve the functioning of the customs union, cannot be sufficiently achieved by the Member States as they cannot efficiently perform the cooperation and coordination necessary to carry out the Programme, but can rather, by reason of its scale and effects, 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.

(18) The Commission should be assisted by the Customs 2020 Committee for the implementation of the Programme.

(19) To facilitate the evaluation of the Programme, a proper framework for monitoring the results achieved by the Programme should be put in place from the very beginning. A mid-term evaluation looking at the achievement of the objectives of the Programme, its efficiency and its added value at the European level, should be carried out. A final evaluation should, in addition, deal with the long-term impact and the sustainability effects of the Programme. Full transparency with regular reporting on monitoring and evaluation to the European Parliament and to the Council should be ensured. Those evaluations should be based on indicators, measuring the effects of the Programme against pre-defined baselines. The indicators should, inter alia, measure the time during which the Common Communication Network is available without system failures, as this is the condition for the proper functioning of all the European Information Systems, for customs authorities to cooperate efficiently within the customs union.

(20) Directive 95/46/EC of the European Parliament and of the Council⁽¹⁾ governs the processing of personal data carried out in the Member States in the context of this Regulation and under the supervision of the Member

States competent authorities, in particular the public independent authorities designated by the Member States. Regulation (EU) No 45/2001 of the European Parliament and of the Council⁽²⁾ governs the processing of personal data carried out by the Commission within the framework of this Regulation and under the supervision of the European Data Protection Supervisor. Any exchange or transmission of information by competent authorities should be in accordance with the rules on the transfer of personal data as laid down in Directive 95/46/EC and any exchange or transmission of information by the Commission should be in accordance with the rules on the transfer of personal data as laid down in Regulation (EC) No 45/2001.

(21) This Regulation replaces Decision No 624/2007/EC of the European Parliament and of the Council⁽³⁾. That Decision should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. A multiannual action programme "Customs 2020" ("the Programme") is hereby established to support the functioning of the customs union.

2. The Programme shall cover the period from 1 January 2014 to 31 December 2020.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(1) "customs authorities" means the authorities responsible for applying rules on customs;

(2) "external experts" means:

(a) representatives of governmental authorities, including those from countries not participating in the Programme, pursuant to Article 3(2);

⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽³⁾ Decision N^o 624/2007/EC of the European Parliament and the Council of 23 May 2007 establishing an action programme for customs in the Community (Customs 2013) (OJ L 154, 14.6.2007, p. 25).

- (b) economic operators and organisations representing economic operators;
- (c) representatives of international and other relevant organisations.

Article 3

Participation in the Programme

1. Participating countries shall be the Member States and the countries referred to in paragraph 2, provided that the conditions set out in that paragraph are met.
2. The Programme shall be open to participation by any of the following countries:
 - (a) acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements, Association Council decisions or similar agreements;
 - (b) partner countries of the European Neighbourhood Policy provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union.

The partner countries referred to in point (b) of the first subparagraph shall participate in the Programme in accordance with provisions to be determined with those countries following the establishment of framework agreements concerning their participation in Union programmes.

Article 4

Contribution to the activities under the Programme

External experts may be invited to contribute to selected activities organised under the Programme wherever this is essential for the achievement of the objectives referred to in Articles 5 and 6. The external experts shall be selected by the Commission together with the participating countries, on the basis of their skills, experience and knowledge relevant to the specific activities.

Article 5

General objective and specific objectives

1. The general objective of the Programme shall be to support the functioning and modernisation of the customs union in order to strengthen the internal market by means of cooperation between participating countries, their customs authorities and their officials. The general objective shall be pursued through the achievement of specific objectives.

2. The specific objectives shall be to support customs authorities in protecting the financial and economic interests of the Union and of the Member States, including the fight against fraud and the protection of intellectual property rights, to increase safety and security, to protect citizens and the environment, to improve the administrative capacity of the customs authorities and to strengthen the competitiveness of European businesses.

The specific objectives shall be achieved, in particular by:

- (a) computerisation;
- (b) ensuring modern and harmonised approaches to customs procedures and controls;
- (c) facilitating legitimate trade;
- (d) reducing compliance costs and administrative burden; and
- (e) enhancing the functioning of the customs authorities.

3. The achievement of the specific objectives shall be measured on the basis of the indicators listed in Annex I. Where necessary, those indicators may be revised during the course of the Programme.

The Commission shall be empowered to adopt delegated acts in accordance with Article 15 amending the list of indicators laid down in Annex I.

Article 6

Operational objectives

The operational objectives of the Programme shall be the following:

- (a) to support the preparation, coherent application and effective implementation of Union law and policy in the field of customs;
- (b) to develop, improve, operate and support the European Information Systems for customs;
- (c) to identify, develop, share and apply best working practices and administrative procedures, in particular further to benchmarking activities;
- (d) to reinforce the skills and competences of customs officials;
- (e) to improve cooperation between customs authorities and international organisations, third countries, other governmental authorities, including Union and national market surveillance authorities, as well as economic operators and organisations representing economic operators.

CHAPTER II

ELIGIBLE ACTIONS

Article 7

Eligible actions

The Programme shall provide, under the conditions set out in the annual work programme referred to in Article 14, financial support for the following types of action:

(a) joint actions:

- (i) seminars and workshops;
- (ii) project groups, generally composed of a limited number of countries, operational during a limited period of time to pursue a predefined objective with a precisely defined outcome, including coordination or benchmarking;
- (iii) working visits organised by the participating countries or another country to enable officials to acquire or increase their expertise or knowledge in customs matters; for working visits organised within third countries only travel and subsistence (accommodation and daily allowance) costs are eligible under the Programme;
- (iv) monitoring activities carried out by joint teams made up of Commission officials and officials of the participating countries to analyse customs practices, identify any difficulties in implementing rules and, where appropriate, make suggestions for the adaptation of Union rules and working methods;
- (v) expert teams, namely structured forms of cooperation, with a non-permanent or permanent character, pooling expertise to perform tasks in specific domains or carry out operational activities, possibly with the support of online collaboration services, administrative assistance and infrastructure and equipment facilities;
- (vi) customs administration capacity building and supporting actions;
- (vii) studies;
- (viii) jointly developed communication actions;
- (ix) any other activity in support of the general, specific and operational objectives set out in Articles 5 and 6;

(b) IT capacity building: development, maintenance, operation and quality control of Union components of the European Information Systems set out in Section A of Annex II and new European Information Systems established under Union law;

(c) human competency building: common training actions to support the necessary professional skills and knowledge relating to customs.

Article 8

Specific implementation provisions for joint actions

1. Participation in joint actions referred to in point (a) of Article 7 shall be on a voluntary basis.
2. Participating countries shall ensure that officials with an adequate profile and qualifications are nominated to participate in the joint actions.
3. Participating countries shall, when appropriate, take the measures necessary for the implementation of the joint actions, in particular by raising awareness on those actions and by ensuring that an optimal use is made of the outputs generated.

Article 9

Specific implementation provisions for IT capacity building

1. The Commission and the participating countries shall ensure that the European Information Systems referred to in Section A of Annex II are developed, operated and appropriately maintained.
2. The Commission shall coordinate, in cooperation with the participating countries, those aspects of the establishment and functioning of the Union components, listed in Section B of Annex II, and non-Union components, described in Section C of Annex II, of the European Information Systems referred to in Section A of Annex II which are necessary to ensure their operability, interconnectivity and continuous improvement.
3. The Union shall bear the cost of acquisition, development, installation, maintenance and day-to-day operation of the Union components. The cost of acquisition, development, installation, maintenance and day-to-day operation of the non-Union components shall be borne by the participating countries.

Article 10

Specific implementation provisions for human competency building

1. Participation in the common training actions referred to in point (c) of Article 7 shall be on a voluntary basis.

2. Participating countries shall, where appropriate, integrate jointly developed training content, including e-learning modules, training programmes and commonly agreed training standards into their national training programmes.

3. Participating countries shall ensure that their officials receive the initial and continuing training necessary to acquire common professional skills and knowledge in accordance with the training programmes.

4. Participating countries shall provide the linguistic training necessary for officials to ascertain a sufficient level of linguistic competence for participation in the Programme.

3. The co-financing rate for grants shall be up to 100 % of the eligible costs in the case of daily allowances, travel and accommodation costs and costs linked to the organisation of events.

The applicable co-financing rate where actions require the awarding of grants shall be set out in the annual work programmes.

4. The financial allocation for the Programme may also cover:

(a) expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the Programme and the achievement of its objectives, in particular, studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the Union insofar as they are related to the objectives of this Programme;

(b) expenses linked to IT networks focusing on information processing and exchange; and

(c) all other technical and administrative assistance expenses incurred by the Commission for the management of the Programme.

CHAPTER III

FINANCIAL FRAMEWORK

Article 11

Financial framework

1. The financial envelope for the implementation of the Programme for the period 2014-2020 is set at EUR 522 943 000 in current prices.

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

2. Within the financial envelope for the Programme, indicative amounts shall be allocated to eligible actions listed in Article 7, within the percentages set out in Annex III for each type of action. The Commission may depart from the indicative allocation of funds set out in that Annex, but may not increase the allocated share of the financial envelope by more than 10 % for each type of action.

Should it prove necessary to exceed that limit, the Commission shall be empowered to adopt delegated acts in accordance with Article 15 modifying the indicative allocation of funds set out in that Annex III.

Article 12

Types of intervention

1. The Commission shall implement the Programme in accordance with Regulation (EU, Euratom) No 966/2012.

2. Union financial support for eligible actions provided for in Article 7 shall take the form of:

(a) grants;

(b) public procurement contracts;

(c) reimbursement of costs incurred by the external experts referred to in Article 4.

Article 13

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, where actions financed under this Regulation 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 unduly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.

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 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁾ and Council Regulation

⁽¹⁾ 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).

(Euratom, EC) No 2185/96 ⁽¹⁾ 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 under this Regulation.

CHAPTER IV

IMPLEMENTING POWERS

Article 14

Work programme

1. In order to implement the Programme, the Commission shall adopt annual work programmes by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Each annual work programme shall implement the objectives of the Programme by determining the following:

- (a) the actions in accordance with the general, specific and operational objectives as set out in Articles 5 and 6, the method of implementation including, where appropriate, the modalities for the establishment of expert teams referred to in point (v) of point (a) of Article 7 and the expected results;
- (b) a breakdown of the budget per type of action;
- (c) the co-financing rate for grants referred to in Article 12(3).

2. In preparing the annual work programme, the Commission shall take into account the common approach regarding the customs policy. That approach shall be regularly reviewed and established in a partnership between the Commission and the Member States in the Customs Policy Group, composed of the heads of customs administrations from the Member States or their representatives and the representatives of the Commission.

The Commission shall keep the Customs Policy Group regularly informed of measures relating to the implementation of the Programme.

Article 15

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

⁽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. The power to adopt delegated acts referred to in the second subparagraph of Article 5(3) and in the second subparagraph of Article 11(2) shall be conferred on the Commission for a period commencing on 1 January 2014 and ending on 31 December 2020.

3. The delegation of power referred to in the second subparagraph of Article 5(3) and in the second subparagraph of Article 11(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following publication in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to the second subparagraph of Article 5(3) and the second subparagraph of Article 11(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of the notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 16

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER V

MONITORING AND EVALUATION

Article 17

Monitoring of actions under the Programme

1. The Commission shall, in cooperation with the participating countries, monitor the implementation of the Programme and actions under it on the basis of the indicators referred to in Annex I.

2. The Commission shall make public the outcome of the monitoring.

3. The outcome of the monitoring shall be used for the evaluation of the Programme in accordance with Article 18.

*Article 18***Evaluation**

1. The Commission shall submit to the European Parliament and to the Council a mid-term and a final evaluation report of the Programme regarding the matters referred to in paragraphs 2 and 3. The results of those evaluations, including the identification of major shortcomings, shall be integrated into decisions on the possible renewal, modification or suspension of the Programme for subsequent periods. Those evaluations shall be carried out by an independent external evaluator.

2. The Commission shall, by 30 June 2018, draw up a mid-term evaluation report on the achievement of the objectives of the actions under the Programme, the efficiency of the use of resources and the added value of the Programme at the European level. That report shall, additionally, address the simplification and the continued relevance of the objectives, as well as the contribution of the Programme to the Union priorities of smart, sustainable and inclusive growth.

3. The Commission shall, by 31 December 2021, draw up a final evaluation report on the matters referred to in paragraph 2, and on the long-term impact and the sustainability of the effects of the Programme.

4. Upon request from the Commission, the participating countries shall provide it with all data and information relevant for the purpose of contributing to its mid-term and final evaluation reports.

CHAPTER VI

FINAL PROVISIONS*Article 19***Repeal**

Decision No 624/2007/EC is repealed with effect from 1 January 2014.

However, financial obligations related to actions pursued under that Decision shall continue to be governed by it until their completion.

*Article 20***Entry into force**

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

ANNEX I

Indicators

The achievement of the specific objectives referred to in Article 5(2) shall be measured on the basis of the following indicators:

- (a) the feedback from participants in actions under the Programme and users of the Programme index which will measure the perception of Programme stakeholders regarding the impact of the actions under the Programme inter alia in terms of:
 - (i) networking impact of the actions under the Programme;
 - (ii) cooperation impact of actions under the Programme;
 - (b) the number of guidelines and recommendations issued following activities under the Programme relating to modern and harmonised approaches to customs procedures;
 - (c) the Common Communication Network for the European Information Systems Indicator, which will measure the availability of the common network which is indispensable for the running of the customs-related European Information Systems. The network should be available 98 % of the time;
 - (d) the Union Law and Policy Application and Implementation Index, which will measure the progress in the preparation, application and implementation of Union law and policy in the field of customs inter alia on the basis of:
 - (i) the number of actions under the Programme organised in this area, in particular relating to the protection of intellectual property rights, the issues of safety and security, the fight against fraud and the security in the supply chain;
 - (ii) the number of recommendations issued following those actions;
 - (e) the European Information System Availability Indicator, which will measure the availability of the Union components of IT customs applications. These should be available 97 % of the time during business hours and 95 % of the time otherwise;
 - (f) the Best Practices and Guideline Index, which will measure the evolution in the identification, development, sharing and application of best working practices and administrative procedures inter alia on the basis of:
 - (i) the number of actions under the Programme organised in this area;
 - (ii) the number of guidelines and best practices shared;
 - (g) the Learning Index, which will measure the progress resulting from actions under the Programme aiming to reinforce skills and competences of customs officials, inter alia on the basis of:
 - (i) the number of officials trained by using common training material of the Union;
 - (ii) the number of times Programme eLearning modules were downloaded;
 - (h) the Cooperation with third parties Indicator, which will establish how the Programme supports authorities other than Member States' customs authorities by measuring the number of actions under the Programme supporting that objective.
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ANNEX II

European Information Systems and their Union and non-Union components

A. The European Information Systems are the following:

- (1) the common communications network/common systems interface (CCN/CSI – CCN2), CCN mail3, the CSI bridge, the http bridge, CCN LDAP and related tools, CCN web portal, CCN monitoring;
- (2) supporting systems, in particular the application configuration tool for CCN, the activity reporting tool (ART2), Taxud electronic management of project online (TEMPO), service management tool (SMT), the user management system (UM), the BPM system, the availability dashboard and AvDB, IT service management portal, directory and user access management;
- (3) Programmes information and communication space (PICS);
- (4) the customs movement systems, in particular the (New) Computerised Transit System ((N)CTS), NCTS TIR for Russia, the Export Control System (ECS) and the Import Control system (ICS). The following applications/components are supporting these systems: the system to exchange data with third countries (SPEED bridge), the SPEED Edifact Converter Node (SPEED-ECN), the Standard SPEED Test Application (SSTA), the Standard Transit Test Application (STTA), the Transit Test Application (TTA), the Central Services/Reference Data (CSR2) and the Central Services/Management Information System (CS/MIS);
- (5) the Community Risk Management System (CRMS) covering the Risk Information Forms (RIF) and the Common Profiles CPCA functional domains;
- (6) the Economic Operators System (EOS) covering the Economic Operator Registration and Identification (EORI), the Authorised Economic Operators (AEO), the Regular Shipping Services (RSS) and the mutual recognition with partner countries functional domains. The Generic Web Service is a support component for this system;
- (7) the tariff system (TARIC3) which is a reference data system for other applications such as the quota management system (QUOTA2), the surveillance management and monitoring system (SURV2), the European Binding Tariff Information system (EBTI3) the European Customs Inventory of Chemical Substances (ECICS2). The Combined Nomenclature (CN) and the suspensions (Suspensions) applications are managing legal information with a direct link to the tariff system;
- (8) the applications for control purposes, in particular the Specimen Management System (SMS) and the Information System for Processing Procedures (ISPP);
- (9) the anti-COUNTERFEIT and anti-PIRACY System (COPIS);
- (10) the Data Dissemination System (DDS2) managing all information which is accessible to the public via the Internet;
- (11) the Anti-Fraud Information System (AFIS); and
- (12) any other systems included in the multiannual strategic plan provided for in Article 8(2) of Decision No 70/2008/EC of the European Parliament and of the Council⁽¹⁾, and the successors of that plan.

B. The Union components of the European Information Systems are:

- (1) IT assets such as the hardware, the software and the network connections of the systems, including the associated data infrastructure;

⁽¹⁾ Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade (OJ L 23, 26.1.2008, p. 21).

- (2) IT services necessary to support the development, the maintenance, the improvement and the operation of the systems; and
 - (3) any other elements which, for reasons of efficiency, security and rationalisation, are identified by the Commission as common to participating countries.
- C. The non-Union components of the European Information Systems are all those components which are not identified as Union components in Section B.
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ANNEX III

Indicative allocation of funds

The indicative allocation of funds to eligible actions listed in Article 7 is the following:

Types of action	Share of the financial envelope (in %)
Joint actions	maximum 20 %
IT capacity building	at least 75 %
Human competency building	maximum 5 %

**REGULATION (EU) No 1295/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

**establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No
1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC**

(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 166(4), the first indent of Article 167(5) and Article 173(3) 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) The Treaty on the Functioning of the European Union (TFEU) aims at an ever closer union among the peoples of Europe and confers on the Union the task, inter alia, of contributing to the flowering of cultures of Member States, while respecting their national and regional diversity and at the same time ensuring that the conditions necessary for the competitiveness of the Union's industry exist. In that respect, the Union, where necessary, supports and supplements Member States' actions to respect cultural and linguistic diversity, in accordance with Article 167 TFEU and the 2005 Unesco Convention on the Protection and Promotion of the Diversity of Cultural Expressions (the "2005 Unesco Convention"), to strengthen the competitiveness of the cultural and creative sectors and to facilitate adaptation to industrial changes.

(2) Union support for the cultural and creative sectors is based primarily on the experience acquired with the Union programmes set out in Decision No 1718/2006/EC of the European Parliament and of the Council ⁽⁴⁾ (the "MEDIA programme"), Decision No 1855/2006/EC of the European Parliament and of

the Council ⁽⁵⁾ (the "Culture programme") and Decision No 1041/2009/EC of the European Parliament and of the Council ⁽⁶⁾ (the "MEDIA Mundus programme"). Decision No 1622/2006/EC of the European Parliament and of the Council ⁽⁷⁾ (the "European Capitals of Culture action") and Decision No 1194/2011/EU of the European Parliament and of the Council ⁽⁸⁾ (the "European Heritage Label action") also contribute to Union support for the cultural and creative sectors.

(3) The Commission Communication on a European agenda for culture in a globalising world, endorsed by the Council in its resolution of 16 November 2007 ⁽⁹⁾ and by the European Parliament in its resolution of 10 April 2008 ⁽¹⁰⁾, sets the objectives for future activities of the Union for the cultural and creative sectors. It aims to promote cultural diversity and intercultural dialogue, culture as a catalyst for creativity in the framework for growth and jobs and culture as a vital element in the Union's international relations.

(4) With regard to the Charter of Fundamental Rights of the European Union and in particular Articles 11, 21 and 22 thereof, the cultural and creative sectors make an important contribution to the fight against all forms of discrimination, including racism and xenophobia, and are an important platform for freedom of expression and for the promotion of respect for cultural and linguistic diversity.

(5) The 2005 Unesco Convention, which entered into force on 18 March 2007 and to which the Union is a party, underlines that cultural activities, goods and services have both an economic and a cultural nature, because they convey identities, values and meanings, and must not, therefore, be treated as solely having commercial value. That convention aims to strengthen international cooperation, including international co-production and co-distribution agreements, and solidarity so as to favour the cultural expression of all countries and individuals.

⁽¹⁾ OJ C 181, 21.6.2012, p. 35.

⁽²⁾ OJ C 277, 13.9.2012, p. 156.

⁽³⁾ Position of the European Parliament of 19 November 2013 (not yet published in the Official Journal) and decision of the Council of 5 December 2013.

⁽⁴⁾ Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) (OJ L 327, 24.11.2006, p. 12).

⁽⁵⁾ Decision No 1855/2006/EC of the European Parliament and of the Council of 12 December 2006 establishing the Culture Programme (2007 to 2013) (OJ L 372, 27.12.2006, p. 1).

⁽⁶⁾ Decision No 1041/2009/EC of the European Parliament and of the Council of 21 October 2009 establishing an audiovisual cooperation programme with professionals from third countries (MEDIA Mundus) (OJ L 288, 4.11.2009, p. 10).

⁽⁷⁾ Decision No 1622/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community action for the European Capital of Culture event for the years 2007 to 2019 (OJ L 304, 3.11.2006, p. 1).

⁽⁸⁾ Decision No 1194/2011/EU of the European Parliament and of the Council of 16 November 2011 establishing a European Union action for the European Heritage Label (OJ L 303, 22.11.2011, p. 1).

⁽⁹⁾ OJ C 287, 29.11.2007, p. 1.

⁽¹⁰⁾ OJ C 247 E, 15.10.2009, p. 32.

It also states that due attention is to be paid to the special circumstances and needs of various social groups, including persons belonging to minorities. Accordingly, a support programme for the cultural and creative sectors should foster cultural diversity at international level in line with that convention.

- (6) Promoting tangible and intangible cultural heritage, in the light of, inter alia, the 2003 Unesco Convention for the Safeguarding of the Intangible Cultural Heritage and the 1972 Unesco Convention Concerning the Protection of the World Cultural and Natural Heritage, should also contribute to the enhancement of the value of the relevant sites whilst giving to peoples a sense of ownership of the cultural and historical value of such sites.
- (7) The Commission Communication entitled "Europe 2020 – A strategy for smart, sustainable and inclusive growth" (the "Europe 2020 Strategy") defines a strategy that aims to turn the Union into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion. In that communication, the Commission noted that the Union needs to provide more attractive framework conditions for innovation and creativity. In that regard, cultural and creative sectors are a source of innovative ideas that can be turned into products and services that create growth and jobs and help address societal changes. Moreover, excellence and competitiveness in those sectors are primarily the result of efforts on the part of artists, creators and professionals that need to be promoted. For that purpose, access to finance for the cultural and creative sectors should be improved.
- (8) In its conclusions on mobility information services for artists and for culture professionals⁽¹⁾, the Council confirmed the importance of the mobility of artists and cultural professionals for the Union and for achieving its objectives within the Europe 2020 Strategy, and called on the Member States and the Commission, within their respective spheres of competences and with due regard to the principle of subsidiarity, to facilitate the provision of comprehensive and accurate information to artists and cultural professionals seeking to be mobile within the Union.
- (9) In order to contribute to the enhancement of a shared cultural area, it is important to promote the transnational mobility of cultural and creative players and the transnational circulation of cultural and creative works, including audiovisual works and products, thereby promoting cultural exchanges and intercultural dialogue.
- (10) The MEDIA, Culture and MEDIA Mundus programmes have been the subject of regular monitoring and external evaluations, and public consultations have been organised on their future, from which it emerges that those programmes play a very important role in protecting and promoting Europe's cultural and linguistic diversity and that they are relevant for the needs of the cultural and creative sectors. It also appears from those monitoring, evaluation and consultation activities, as well as from various independent studies, in particular the study on the entrepreneurial dimension of cultural and creative industries, that the cultural and creative sectors are facing common challenges, namely the rapid change caused by the digital shift and globalisation, market fragmentation relating to linguistic diversity, difficulties in accessing finance, complex administrative procedures and a shortage of comparable data, which all require action at Union level.
- (11) The European cultural and creative sectors are inherently diversified along national and linguistic lines, which results in a culturally rich and highly independent cultural landscape, providing a voice for the different cultural traditions of Europe's heritage. However, such diversification also gives rise to a series of obstacles that impede the smooth transnational circulation of cultural and creative works and hamper the mobility of cultural and creative players within and outside the Union, which can lead to geographical imbalances and, subsequently, to a limited choice for the consumer.
- (12) Given that the European cultural and creative sectors are characterised by linguistic diversity which leads in some sectors to fragmentation along linguistic lines, subtitling, dubbing and audio description are essential to the circulation of cultural and creative works, including audiovisual works.
- (13) The digital shift is having a massive impact on how cultural and creative goods and services are made, disseminated, accessed, consumed and monetised. While the need to seek a new balance between the increasing accessibility of cultural and creative works, fair remuneration of artists and creators and the emergence of new business models is recognised, the changes resulting from the digital shift offer wide opportunities for the European cultural and creative sectors and for European society in general. Lower distribution costs, new distribution channels, the potential for new and for increased audiences and new opportunities for niche products can facilitate access and increase circulation of cultural and creative works worldwide. In order to use those opportunities to the full and adapt to the context of the digital shift and globalisation, the cultural and creative sectors need to develop new skills and require

⁽¹⁾ OJ C 175, 15.6.2011, p. 5.

- greater access to finance in order to upgrade equipment, develop new production and distribution methods and adapt their business models.
- (14) Current distribution practices underpin the film financing system. However, there is an increasing need to promote the emergence of attractive legal online offers and to encourage innovation. Therefore, it is essential to promote new distribution modes in order to allow new business models to emerge.
- (15) Digitisation of cinemas has been an ongoing issue for many small cinema operators, particularly single-screen operators, due to the high costs of the digital equipment. While the Member States have primary competence for culture and should therefore continue to address that issue at national, regional and local level, as appropriate, there is potential for financing from Union programmes and funds, in particular those aimed at local and regional development.
- (16) Audience development, especially as regards young people, requires a specific commitment on the part of the Union, to support, in particular, media and film literacy.
- (17) One of the greatest challenges for the cultural and creative sectors, especially for micro, small and medium-sized enterprises ("SMEs") and micro, small and medium-sized organisations, including not-for-profit and non-governmental organisations, is the difficulty they face in accessing the funds that they need to finance their activities, to grow, and to maintain and increase their competitiveness or internationalise their activities. While that is a common challenge for SMEs generally, the situation is significantly more difficult in the cultural and creative sectors due to the intangible nature of many of their assets, the prototype profile of their activities, and their intrinsic need to take risks and experiment in order to innovate. Such risk-taking needs to be understood and supported also by the financial sector.
- (18) As a pilot project, the European Creative Industries Alliance is a cross-sectoral initiative that primarily supports the creative industries at policy level. It aims at leveraging additional funds for creative industries and at stimulating the demand for creative industries' services by other industries and sectors. Testing of new tools for better support for innovation in creative industries will take place and will be leveraged to feed into a policy learning platform composed of European, national and regional stakeholders.
- (19) Bringing together the current MEDIA, Culture and MEDIA Mundus programmes for the cultural and creative sectors within a single comprehensive programme (the "Programme") would more effectively support SMEs and micro, small and medium-sized organisations in their efforts to take advantage of the opportunities offered by the digital shift and globalisation and would help them to address issues currently leading to market fragmentation. To be effective, the Programme should take into account the specific nature of the different sectors, their different target groups and their particular needs through tailor-made approaches within two independent sub-programmes and a cross-sectoral strand. In particular, it is important to ensure synergies at the level of implementation between the Programme and the national and regional strategies for smart specialisation. To that end, the Programme should establish a coherent support structure for the different cultural and creative sectors consisting of a grants system complemented by a financial instrument.
- (20) The Programme should take into account the dual nature of culture and cultural activities, recognising, on the one hand, the intrinsic and artistic value of culture and, on the other hand, the economic value of those sectors, including their broader societal contribution to creativity, innovation and social inclusion.
- (21) With regard to the implementation of the Programme, the intrinsic value of culture and the specific nature of the cultural and creative sectors should be taken into account, including the importance of not-for-profit organisations and projects under a Culture Sub-programme.
- (22) A self-standing financial instrument, the Cultural and Creative Sectors Guarantee Facility (the "Guarantee Facility"), should enable the cultural and creative sectors at large to grow, and in particular should provide sufficient leverage for new actions and opportunities. Selected financial intermediaries should act in favour of cultural and creative projects to ensure a balanced loans portfolio in terms of geographical coverage and sector representation. Moreover, public and private organisations have an important role to play in that context, in order to achieve a broad approach under the Guarantee Facility.
- (23) Funding should also be provided for the European Capitals of Culture action and for the administration of the European Heritage Label action, as they contribute to the strengthening of the feeling of belonging to a common cultural area, to the stimulation of intercultural dialogue and mutual understanding and to the enhancement of the value of cultural heritage.

- (24) In addition to Member States and overseas countries and territories which are eligible to participate in the Programme pursuant to Article 58 of Council Decision 2001/822/EC ⁽¹⁾, the Programme should also be open, subject to certain conditions, to the participation of European Free Trade Association ("EFTA") countries which are parties to the Agreement on the European Economic Area ("EEA") and of the Swiss Confederation. Accessing countries, candidate countries and potential candidate countries benefiting from a pre-accession strategy as well as countries covered by the European Neighbourhood Policy should also be able to participate in the Programme, except as regards the Guarantee Facility.
- (25) The Programme should further be open for bilateral or multilateral cooperation actions with third countries on the basis of additional appropriations to be defined, and specific arrangements to be agreed upon, with the parties concerned.
- (26) Cooperation in the cultural and audiovisual fields should be fostered between the Programme and international organisations such as Unesco, the Council of Europe, the Organisation for Economic Co-operation and Development ("OECD") and the World Intellectual Property Organisation ("WIPO").
- (27) It is necessary to ensure the European added value of all actions and activities carried out within the Programme, their complementarity to Member States' activities, their compliance with Article 167(4) TFEU and their consistency with other Union activities, in particular in the fields of education, employment, the internal market, enterprise, youth, health, citizenship and justice, research and innovation, industrial and cohesion policy, tourism and external relations, trade and development, and the digital agenda.
- (28) In compliance with the principles for performance-related assessment, the procedures for monitoring and evaluating the Programme should include detailed annual reports and should refer to specific, measurable, achievable, relevant and time-bound targets and indicators, including qualitative ones. Procedures for monitoring and evaluation ought to take into account the work of relevant players such as Eurostat, and the findings of the ESS-net Culture project and of the Unesco Institute for Statistics. In that context, as regards the audiovisual sector, the Union's participation in the European Audiovisual Observatory (the "Observatory") should be continued.
- (29) In order to ensure optimal monitoring and evaluation of the Programme during its entire duration, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the adoption of additional quantitative and qualitative indicators. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (30) As stated in the Commission report of 30 July 2010 on the impact of the European Parliament and Council Decisions modifying the legal bases of the European Programmes in the areas of Lifelong Learning, Culture, Youth and Citizenship, the substantial shortening of the delays in the management procedures has increased the efficiency of programmes. Particular care should be taken to ensure that administrative and financial procedures continue to be simplified, including through the use of sound, objective and regularly updated systems for determining lump sums, unit costs and flat-rate financing.
- (31) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽²⁾.
- (32) In accordance with Council Regulation (EC) No 58/2003 ⁽³⁾, the Commission has since 2009 entrusted the Education, Audiovisual and Culture Executive Agency with implementation tasks for the management of Union action in the fields of education, audiovisual and culture. The Commission may therefore use, on the basis of a cost-benefit analysis, an existing executive agency for the implementation of the Programme, as provided for in that Regulation.
- (33) This Regulation lays down a financial envelope for the entire duration of the Programme, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council

⁽¹⁾ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ("Overseas Association Decision") (OJ L 314, 30.11.2001, p. 1).

⁽²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽³⁾ Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1).

and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽¹⁾, for the European Parliament and the Council during the annual budgetary procedure.

- (34) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including measures for the prevention, detection and investigation of irregularities, the recovery of funds lost, unduly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽²⁾ (the "Financial Regulation").
- (35) With regard to the European Anti-Fraud Office ("OLAF") and pursuant to Council Regulation (Euratom, EC) No 2185/96⁽³⁾ and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽⁴⁾, appropriate measures should be drawn up and implemented to prevent fraud and to recover funds which have been lost or transferred or used improperly.
- (36) Since the objectives of this Regulation, namely to safeguard, develop and promote European cultural and linguistic diversity, to promote Europe's cultural heritage and to strengthen the competitiveness of the European cultural and creative sectors, in particular of the audiovisual sector, cannot be sufficiently achieved by the Member States, given the transnational and international character of the Programme, but can rather, by reason of its scale and expected effects, 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 those objectives.
- (37) Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC should therefore be repealed.
- (38) Provision should be made for measures governing the transition from the MEDIA, Culture and MEDIA Mundus programmes to the Programme.

⁽¹⁾ OJ C 420 du 20.12.2013, p. 1

⁽²⁾ 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).

⁽³⁾ 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).

⁽⁴⁾ 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).

(39) In order to ensure continuity in the funding support provided under the Programme, the Commission should be able to consider the costs directly linked to the implementation of the supported actions and activities as eligible for financing, even if they are incurred by the beneficiary before the grant application is submitted.

(40) In order to ensure continuity in the funding support provided under the Programme, this Regulation should apply from 1 January 2014. For reasons of urgency, this Regulation should enter into force as soon as possible after its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Establishment and duration

1. This Regulation establishes the Creative Europe Programme for support to the European cultural and creative sectors (the "Programme").
2. The Programme shall be implemented for the period from 1 January 2014 to 31 December 2020.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'cultural and creative sectors' means all sectors whose activities are based on cultural values and/or artistic and other creative expressions, whether those activities are market- or non-market-oriented, whatever the type of structure that carries them out, and irrespective of how that structure is financed. Those activities include the development, the creation, the production, the dissemination and the preservation of goods and services which embody cultural, artistic or other creative expressions, as well as related functions such as education or management. The cultural and creative sectors include inter alia architecture, archives, libraries and museums, artistic crafts, audiovisual (including film, television, video games and multimedia), tangible and intangible cultural heritage, design, festivals, music, literature, performing arts, publishing, radio and visual arts;
- (2) 'SMEs' means micro, small and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC⁽⁵⁾;

⁽⁵⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (3) 'participating financial intermediaries' means financial intermediaries within the meaning of the second subparagraph of Article 139(4) of the Financial Regulation, selected under the Guarantee Facility in accordance with the Financial Regulation and with Annex I to this Regulation, providing or planning to provide:
- (a) loans to SMEs and to micro, small and medium-sized organisations in the cultural and creative sectors (guarantees from the European Investment Fund ("EIF")); or
 - (b) loan guarantees to other financial intermediaries providing loans to SMEs and to micro, small and medium-sized organisations in the cultural and creative sectors (counter-guarantees from the EIF);
- (4) 'capacity-building providers' means entities capable of providing expertise in accordance with Annex I in order to enable participating financial intermediaries to assess effectively the specificities and risks associated with SMEs and micro, small and medium-sized organisations in the cultural and creative sectors and with their projects.

Article 3

General objectives

The general objectives of the Programme shall be:

- (a) to safeguard, develop and promote European cultural and linguistic diversity and to promote Europe's cultural heritage;
- (b) to strengthen the competitiveness of the European cultural and creative sectors, in particular of the audiovisual sector, with a view to promoting smart, sustainable and inclusive growth.

Article 4

Specific objectives

The specific objectives of the Programme shall be:

- (a) to support the capacity of the European cultural and creative sectors to operate transnationally and internationally;
- (b) to promote the transnational circulation of cultural and creative works and transnational mobility of cultural and creative players, in particular artists, as well as to reach new and enlarged audiences and improve access to cultural and creative works in the Union and beyond, with a particular focus on children, young people, people with disabilities and under-represented groups;
- (c) to strengthen the financial capacity of SMEs and micro, small and medium-sized organisations in the cultural and

creative sectors in a sustainable way, while endeavouring to ensure a balanced geographical coverage and sector representation;

- (d) to foster policy development, innovation, creativity, audience development and new business and management models through support for transnational policy cooperation.

Article 5

European added value

1. Recognising the intrinsic and economic value of culture, the Programme shall support actions and activities with a European added value in the cultural and creative sectors. It shall contribute to the achievement of the objectives of the Europe 2020 Strategy and its flagship initiatives.

2. European added value shall be ensured through one or more of the following:

- (a) the transnational character of actions and activities which complement regional, national, international and other Union programmes and policies, and the impact of such actions and activities on the cultural and creative sectors as well as on citizens and on their knowledge of cultures other than their own;
- (b) the development and promotion of transnational cooperation between cultural and creative players, including artists, audiovisual professionals, cultural and creative organisations and audiovisual operators, focused on stimulating more comprehensive, rapid, effective and long-term responses to global challenges;
- (c) the economies of scale and critical mass which Union support fosters, creating a leverage effect for additional funds;
- (d) ensuring a more level playing field in the European cultural and creative sectors by taking account of low production capacity countries and/or countries or regions with a restricted geographical and/or linguistic area.

Article 6

Structure of the Programme

The Programme shall consist of:

- (a) a MEDIA Sub-programme;
- (b) a Culture Sub-programme;
- (c) a Cross-sectoral Strand.

*Article 7***Logos of the Sub-programmes**

1. The Commission shall ensure the visibility of the Programme through the use of logos, which shall be specific to each of the Sub-programmes.
2. The beneficiaries of the MEDIA Sub-programme shall use the logo set out in Annex II. The Commission shall establish details for the use of that logo and shall communicate them to the beneficiaries.
3. The beneficiaries of the Culture Sub-programme shall use a logo which shall be established by the Commission. The Commission shall establish details for the use of that logo and shall communicate them to the beneficiaries.
4. The Commission and the Creative Europe Desks referred to in Article 16 shall also be entitled to use the logos of the Sub-programmes.

*Article 8***Access to the Programme**

1. The Programme shall foster cultural diversity at international level in line with the 2005 Unesco Convention.
2. The Programme shall be open to the participation of the Member States.
3. Without prejudice to paragraph 4, the Programme shall be open to the participation of the following countries provided that they pay additional appropriations and that, for the MEDIA Sub-programme, they meet the conditions set out in Directive 2010/13/EU of the European Parliament and of the Council ⁽¹⁾:
 - (a) acceding countries, candidate countries and potential candidate countries benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements, Association Council decisions or similar agreements;
 - (b) EFTA countries that are party to the EEA Agreement, in accordance with that Agreement;
 - (c) the Swiss Confederation, on the basis of a bilateral agreement with that country;
 - (d) countries covered by the European Neighbourhood Policy, in accordance with the procedures established with those countries following the framework agreements providing for their participation in Union programmes.

⁽¹⁾ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

4. The countries referred to in points (a) and (d) of paragraph 3 shall be precluded from participating in the Guarantee Facility.

5. The Programme shall be open for bilateral or multilateral cooperation actions targeted at selected countries or regions on the basis of additional appropriations paid by, and specific arrangements to be agreed upon with, those countries or regions.

6. The Programme shall permit cooperation and joint actions with countries not participating in the Programme and with international organisations which are active in the cultural and creative sectors such as Unesco, the Council of Europe, the OECD or the WIPO on the basis of joint contributions for the realisation of the Programme's objectives.

CHAPTER II

MEDIA Sub-programme*Article 9***Priorities of the MEDIA Sub-programme**

1. The priorities in the field of reinforcing the European audiovisual sector's capacity to operate transnationally shall be the following:
 - (a) facilitating the acquisition and improvement of skills and competences of audiovisual professionals and the development of networks, including the use of digital technologies to ensure adaptation to market development, testing new approaches to audience development and testing new business models;
 - (b) increasing the capacity of audiovisual operators to develop European audiovisual works with a potential to circulate in the Union and beyond and to facilitate European and international co-production, including with television broadcasters;
 - (c) encouraging business-to-business exchanges by facilitating access to markets and business tools enabling audiovisual operators to increase the visibility of their projects on Union and international markets.
2. The priorities in the field of promoting transnational circulation shall be the following:
 - (a) supporting theatrical distribution through transnational marketing, branding, distribution and exhibition of audiovisual works;
 - (b) promoting transnational marketing, branding and distribution of audiovisual works on all other non-theatrical platforms;

- (c) supporting audience development as a means of stimulating interest in, and improving access to, European audiovisual works, in particular through promotion, events, film literacy and festivals;
- (d) promoting new distribution modes in order to allow the emergence of new business models.

Article 10

Support measures of the MEDIA Sub-programme

In order to implement the priorities set out in Article 9, the MEDIA Sub-programme shall provide support for:

- (a) the development of a comprehensive range of training measures promoting the acquisition and improvement of skills and competences by audiovisual professionals, knowledge-sharing and networking initiatives, including the integration of digital technologies;
- (b) the development of European audiovisual works, in particular films and television works such as fiction, documentaries and children's and animated films, as well as interactive works such as video games and multimedia with enhanced cross-border circulation potential;
- (c) activities aiming to support European audiovisual production companies, in particular independent production companies, with a view to facilitating European and international co-productions of audiovisual works including television works;
- (d) activities helping European and international co-production partners to come together and/or providing indirect support for audiovisual works co-produced by international co-production funds based in a country participating in the Programme;
- (e) facilitating access to professional audiovisual trade events and markets and the use of online business tools inside and outside the Union;
- (f) establishing systems of support for the distribution of non-national European films through theatrical distribution and on other platforms, as well as for international sales activities, in particular the subtitling, dubbing and audio description of audiovisual works;
- (g) facilitating the circulation of European films worldwide and of international films in the Union on all distribution platforms, via international cooperation projects in the audiovisual sector;
- (h) a European cinema operators' network screening a significant proportion of non-national European films;

- (i) initiatives presenting and promoting a diversity of European audiovisual works, including short films, such as festivals and other promotional events;
- (j) activities aimed at promoting film literacy and at increasing audiences' knowledge of, and interest in, European audiovisual works, including the audiovisual and cinematographic heritage, in particular among young audiences;
- (k) innovative actions testing new business models and tools in areas likely to be influenced by the introduction and use of digital technologies.

Article 11

European Audiovisual Observatory

1. The Union shall be a member of the Observatory for the duration of the Programme.
2. The Union's participation in the Observatory shall contribute to the achievement of the priorities of the MEDIA Sub-programme by:
 - (a) encouraging transparency and the establishment of a level playing field as regards the accessibility of legal and financial/market information, and contributing to the comparability of legal and statistical information;
 - (b) providing data and market analysis useful for the elaboration of the action lines of the MEDIA Sub-programme and for the evaluation of their impact on the market.
3. The Commission shall represent the Union in its dealings with the Observatory.

CHAPTER III

Culture Sub-programme

Article 12

Priorities of the Culture Sub-programme

1. The priorities in the field of reinforcing the cultural and creative sectors' capacity to operate transnationally shall be the following:
 - (a) supporting actions providing cultural and creative players with skills, competences and know-how that contribute to strengthening the cultural and creative sectors, including encouraging adaptation to digital technologies, testing innovative approaches to audience development and testing new business and management models;

(b) supporting actions enabling cultural and creative players to cooperate internationally and to internationalise their careers and activities in the Union and beyond, where possible on the basis of long-term strategies;

(c) providing support to strengthen European cultural and creative organisations and international networking in order to facilitate access to professional opportunities.

2. The priorities in the field of promoting transnational circulation and mobility shall be the following:

(a) supporting international touring, events, exhibitions and festivals;

(b) supporting the circulation of European literature with a view to ensuring its widest possible accessibility;

(c) supporting audience development as a means of stimulating interest in, and improving access to, European cultural and creative works and tangible and intangible cultural heritage.

Article 13

Support measures of the Culture Sub-programme

1. In order to implement the priorities set out in Article 12, the Culture Sub-programme shall provide support for:

(a) transnational cooperation projects bringing together cultural and creative organisations from different countries to undertake sectoral or cross-sectoral activities;

(b) activities by European networks of cultural and creative organisations from different countries;

(c) activities by organisations with a European vocation fostering the development of emerging talent and stimulating the transnational mobility of cultural and creative players and circulation of works, with the potential to exert a broad influence on the cultural and creative sectors and to provide for lasting effects;

(d) literary translation and its further promotion;

(e) special actions designed to make the richness and diversity of European cultures more visible and to stimulate intercultural dialogue and mutual understanding, including Union cultural prizes, the European Capitals of Culture action and the European Heritage Label action.

2. The measures set out in paragraph 1 shall support, in particular, not-for-profit projects.

CHAPTER IV

Cross-sectoral Strand

Article 14

Cultural and Creative Sectors Guarantee Facility

1. The Commission shall establish a Guarantee Facility targeting the cultural and creative sectors.

The Guarantee Facility shall operate as a self-standing instrument and shall be set up and managed in accordance with Title VIII of the Financial Regulation.

2. The Guarantee Facility shall have the following priorities:

(a) to facilitate access to finance for SMEs and micro, small and medium-sized organisations in the cultural and creative sectors;

(b) to improve the capacity of participating financial intermediaries to assess the risks associated with SMEs and micro, small and medium-sized organisations in the cultural and creative sectors and with their projects, including through technical assistance, knowledge-building and networking measures.

The priorities shall be implemented in accordance with Annex I.

3. In accordance with Article 139(4) of the Financial Regulation, the Commission shall implement the Guarantee Facility in an indirect management mode by entrusting tasks to the EIF as referred to in point (iii) of Article 58(1)(c) of that Regulation, subject to the terms of an agreement between the Commission and the EIF.

Article 15

Transnational policy cooperation

1. In order to promote transnational policy cooperation, the Cross-sectoral Strand shall support:

(a) transnational exchange of experiences and know-how in relation to new business and management models, peer-learning activities and networking among cultural and creative organisations and policy-makers related to the development of the cultural and creative sectors, promoting digital networking where appropriate;

(b) the collection of market data, studies, analysis of labour market and skills needs, European and national cultural policies analysis and support for statistical surveys based on instruments and criteria specific to each sector and evaluations, including measurement of all aspects of the impact of the Programme;

(c) payment of the contribution fee for Union membership of the Observatory to foster data collection and analysis in the audiovisual sector;

- (d) testing of new and cross-sectoral business approaches to funding, distributing and monetising creation;
- (e) conferences, seminars and policy dialogue, including in the field of cultural and media literacy, promoting digital networking where appropriate;
- (f) the Creative Europe Desks referred to in Article 16 and the performance of their tasks.

2. By 30 June 2014, the Commission shall carry out a feasibility study exploring the possibility of collecting and analysing data in the cultural and creative sectors other than the audiovisual sector, and shall present the results of that study to the European Parliament and to the Council.

Depending on the results of the feasibility study, the Commission may submit a proposal to amend this Regulation accordingly.

Article 16

Creative Europe Desks

1. The countries participating in the Programme, acting together with the Commission, shall establish Creative Europe Desks in accordance with their national law and practice (the "Creative Europe Desks").
2. The Commission shall support a network of Creative Europe Desks.
3. The Creative Europe Desks shall carry out the following tasks, while taking into account the specific characteristics of each sector:
 - (a) provide information about, and promote, the Programme in their country;
 - (b) assist the cultural and creative sectors in relation to the Programme and provide basic information on other relevant support opportunities available under Union policy;
 - (c) stimulate cross-border cooperation within the cultural and creative sectors;
 - (d) support the Commission by providing assistance regarding the cultural and creative sectors in the countries participating in the Programme, for example through the provision of available data on those sectors;
 - (e) support the Commission in ensuring proper communication and dissemination of the results and impacts of the Programme;

- (f) ensure the communication and dissemination of information concerning the Union funding awarded and the results obtained for their country.

4. The Commission, acting together with the Member States, shall ensure the quality and results of the service provided by the Creative Europe Desks through regular and independent monitoring and evaluation.

CHAPTER V

Performance results and dissemination

Article 17

Consistency and complementarity

1. The Commission, in cooperation with the Member States, shall ensure the overall consistency and complementarity of the Programme with:

- (a) relevant Union policies, such as those in the fields of education, employment, health, the internal market, the digital agenda, youth, citizenship, external relations, trade, research and innovation, enterprise, tourism, justice, enlargement and development;
- (b) other relevant Union funding sources in the field of culture and media policies, in particular the European Social Fund, the European Regional Development Fund and the research and innovation programmes, as well as the financial instruments relating to justice and citizenship, external cooperation programmes and the pre-accession instruments.

2. This Regulation shall apply and be implemented without prejudice to the international commitments of the Union.

Article 18

Monitoring and evaluation

1. The Commission shall ensure regular monitoring and external evaluation of the Programme against the qualitative and quantitative performance indicators set out below:

- (a) indicators for the general objectives referred to in Article 3:
 - (i) the cultural and creative sectors' level, change in and share of employment and share of gross domestic product;
 - (ii) the number of people accessing European cultural and creative works, including, where possible, works from countries other than their own;

- (b) indicators for the specific objective referred to in point (a) of Article 4:
- (i) the scale of international activities of cultural and creative organisations and the number of transnational partnerships created;
 - (ii) the number of learning experiences and activities supported by the Programme which have improved the competences and increased the employability of cultural and creative players, including audiovisual professionals;
- (c) indicators for the specific objective referred to in point (b) of Article 4 as regards the MEDIA Sub-programme:
- (i) the number of admissions for non-national European films in Europe and European films worldwide (10 most important non-European markets) in cinemas;
 - (ii) the percentage of European audiovisual works in cinemas, on television and on digital platforms;
 - (iii) the number of people in the Member States accessing non-national European audiovisual works and the number of people in the countries participating in the Programme accessing European audiovisual works;
 - (iv) the number of European video games produced in the Union as well as in the countries participating in the Programme;
- (d) indicators for the specific objective referred to in point (b) of Article 4 as regards the Culture Sub-programme:
- (i) the number of people directly and indirectly reached through projects supported by the Programme;
 - (ii) the number of projects addressed to children, young people and under-represented groups and the estimated number of people reached;
- (e) indicators for the specific objective referred to in point (c) of Article 4:
- (i) the volume of loans guaranteed in the framework of the Guarantee Facility, categorised by national origin, size and sectors of SMEs and micro, small and medium-sized organisations;
 - (ii) the volume of loans granted by participating financial intermediaries, categorised by national origin;
 - (iii) the number and geographical spread of participating financial intermediaries;
 - (iv) the number of SMEs and micro, small and medium-sized organisations benefiting from the Guarantee Facility, categorised by national origin, size and sectors;
 - (v) the average default rate of loans;
 - (vi) the achieved leverage effect of guaranteed loans in relation to the indicative leverage effect (1:5,7);
- (f) indicators for the specific objective referred to in point (d) of Article 4:
- (i) the number of Member States making use of the results of the open method of coordination in their national policy development;
 - (ii) the number of new initiatives and policy outcomes.
2. The results of the monitoring and evaluation process shall be taken into account in the implementation of the Programme.
3. In addition to regularly monitoring the Programme, the Commission shall establish a mid-term evaluation report, based on an external and independent evaluation, which:
- (a) includes qualitative and quantitative elements, in order to assess the effectiveness of the Programme in achieving its objectives, the efficiency of the Programme, and its European added value;
 - (b) addresses the scope for simplification of the Programme, its internal and external coherence, the continued relevance of all its objectives and the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth;
 - (c) takes into account evaluation results concerning the long-term impact of Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC.
4. The Commission shall submit the mid-term evaluation report referred to in paragraph 3 to the European Parliament and the Council by 31 December 2017.
5. On the basis of a final external and independent evaluation, the Commission shall establish a final evaluation report which assesses the longer-term impacts and the sustainability of the Programme on the basis of the selected quantitative and qualitative indicators. With regard to the specific objective referred to in point (c) of Article 4, the Commission shall also evaluate the effects of the Guarantee Facility on access to bank loans and the associated costs for SMEs and micro, small and medium-sized organisations in the cultural and creative sectors.
6. The Commission shall submit the final evaluation report referred to in paragraph 5 to the European Parliament and the Council by 30 June 2022.

Article 19

Communication and dissemination

1. The Commission shall provide the countries participating in the Programme with information concerning the projects which have received the Union's funding, by transmitting the selection decisions within two weeks of their adoption.
2. Beneficiaries of the projects supported by the Programme shall ensure the communication and dissemination of information concerning the Union's funding they have received and the results obtained.
3. The Commission shall ensure the dissemination of relevant information to the Creative Europe Desks.

CHAPTER VI

Delegated acts

Article 20

Delegation of powers to the Commission

The Commission shall be empowered to adopt delegated acts in accordance with Article 21 in order to supplement the qualitative and quantitative performance indicators laid down in Article 18(1).

Article 21

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 20 shall be conferred on the Commission for the duration of the Programme.
3. The delegation of power referred to in Article 20 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 20 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

CHAPTER VII

Implementing provisions

Article 22

Implementation of the Programme

1. The Commission shall implement the Programme in accordance with the Financial Regulation.
2. The Commission shall adopt by means of implementing acts an annual work programme concerning the Sub-programmes and the Cross-sectoral Strand. The Commission shall ensure in the annual work programme that the general and specific objectives set out in Articles 3 and 4 as well as the priorities set out in Articles 9 and 12 are implemented annually in a consistent manner, and shall outline the expected results, the method of implementation and the total amount of the financing plan. The annual work programme shall also contain a description of the measures to be financed, an indication of the amount allocated to each measure and an indicative implementation timetable.

For grants, the annual work programme shall include the priorities, the eligibility, selection and award criteria, and the maximum rate of co-financing. The financial contribution from the Programme shall be a maximum of 80 % of the costs of the operations supported.

For the Guarantee Facility, the annual work programme shall include the eligibility and selection criteria for financial intermediaries, the exclusion criteria in respect of the content of projects submitted to the participating financial intermediaries, the annual allocation to the EIF and the eligibility, selection and award criteria for capacity-building providers.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(4).

3. The Commission shall adopt the general guidelines for the implementation of the Programme in accordance with the advisory procedure referred to in Article 23(3).

Article 23

Committee procedure

1. The Commission shall be assisted by a committee (the "Creative Europe Committee"). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. The Creative Europe Committee may meet in specific configurations to deal with concrete issues relating to the Sub-programmes and the Cross-sectoral Strand.
3. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 24***Financial provisions**

1. The financial envelope for the implementation of the Programme for the period from 1 January 2014 to 31 December 2020 is set at EUR 1 462 724 000 in current prices.

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

2. The financial envelope referred to in paragraph 1 shall be allocated as follows:

(a) at least 56 % for the MEDIA Sub-programme;

(b) at least 31 % for the Culture Sub-programme;

(c) a maximum of 13 % for the Cross-sectoral Strand, with at least 4 % being allocated for the transnational cooperation measures listed in Article 15 and for the Creative Europe Desks.

3. The administrative costs in respect of the implementation of the Programme shall form part of the allocation set out in paragraph 2 and the total amount of those costs shall not exceed 7 % of the Programme's budget, of which 5 % shall be allocated to the implementation of the MEDIA Sub-programme and 2 % to the implementation of the Culture Sub-programme.

4. The financial envelope referred to in paragraph 1 may cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are directly necessary for the management of the Programme and the achievement of its objectives, in particular studies, meetings of experts, information and communication actions, including institutional communication of the political priorities of the Union in so far as they are related to the general objectives of the Programme, and expenses connected with IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission in managing the Programme.

5. The financial envelope referred to in paragraph 1 may cover the technical and administrative assistance expenses necessary to ensure the transition between the measures adopted under Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC and this Regulation.

If necessary, appropriations may be entered in the budget beyond 2020 to cover similar expenses, in order to allow for the management of actions not yet completed by 31 December 2020.

6. By way of derogation from Article 130(2) of the Financial Regulation, and in duly justified cases, the Commission may consider costs directly linked to the implementation of the supported actions and activities as eligible even if they are incurred by the beneficiary before the submission of the grant application.

*Article 25***Protection of the financial interests of the Union**

1. The Commission shall take appropriate measures to ensure that, when actions financed under this Regulation 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 inspections and, if irregularities are detected, by recovery of the amounts unduly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks and inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the Programme.

3. OLAF may carry out investigations, including on-the-spot checks and inspections in accordance with the provisions and procedures laid down in Regulation (Euratom, EC) No 2185/96 and Regulation (EU, Euratom) No 883/2013, 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 under the Programme.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct audits and investigations, according to their respective competences.

*CHAPTER VIII***Final provisions***Article 26***Repeal and transitional provision**

1. Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC are hereby repealed with effect from 1 January 2014.

2. Activities undertaken by 31 December 2013 on the basis of the Decisions referred to in paragraph 1 shall, until they are terminated, continue to be managed in compliance with those Decisions.

*Article 27***Entry into force**

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

It shall apply from 1 January 2014.

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

Done at Strasbourg, 11 December 2013.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

V. LEŠKEVIČIUS

ANNEX I

IMPLEMENTATION ARRANGEMENTS FOR THE CULTURAL AND CREATIVE SECTORS GUARANTEE FACILITY

The financial support provided by the Guarantee Facility shall be earmarked to SMEs and micro, small and medium-sized organisations in the cultural and creative sectors, adapted to the specific needs of the sectors and branded as such.

1. Tasks

The Guarantee Facility shall provide:

- (a) guarantees to participating financial intermediaries from any country participating in the Guarantee Facility;
- (b) participating financial intermediaries with additional expertise to evaluate risks associated with SMEs and micro, small and medium-sized organisations and with their cultural and creative projects.

2. Selection of participating financial intermediaries

The EIF shall select participating financial intermediaries in conformity with best market practice and with the specific objective referred to in point (c) of Article 4. The selection criteria shall include in particular:

- (a) the volume of debt financing made available to SMEs and micro, small and medium-sized organisations;
- (b) the risk management policy for lending operations, in particular in relation to cultural and creative projects;
- (c) the ability to build a diversified loan portfolio and to propose a marketing and promotion plan to SMEs and micro, small and medium-sized organisations across regions and sectors.

3. Duration of the Guarantee Facility

Individual guarantees may have a maturity of up to 10 years.

In accordance with point (i) of Article 21(3) of the Financial Regulation, repayments generated by the guarantees shall be assigned to the Guarantee Facility for a period not exceeding the period of commitment plus 10 years. Repayments generated in accordance with the provisions of relevant delegation agreements by the operations of the MEDIA Production Guarantee Fund set up before 2014 shall be assigned to the Guarantee Facility in the period 2014-2020. The Commission shall inform the Member States of such assignments through the Creative Europe Committee.

4. Capacity-building

Capacity-building under the Guarantee Facility is the provision of expertise to participating financial intermediaries in order to increase their understanding of the cultural and creative sectors (in aspects such as the intangible nature of collateral assets, the size of the market lacking critical mass, and the prototype nature of products and services) and the provision to each participating financial intermediary of additional expertise in building portfolios and evaluating risks associated with cultural and creative projects.

The resources allocated to capacity-building shall be limited to 10 % of the budget for the Guarantee Facility.

The EIF shall select the capacity-building providers on behalf of the Guarantee Facility and under the supervision of the Commission through a public and open procurement procedure, on the basis of criteria such as experience in financing the cultural and creative sectors, expertise, geographical reach, delivery capacity and market knowledge.

5. Budget

The budgetary allocation shall cover the full cost of the Guarantee Facility, including payment obligations towards participating financial intermediaries such as losses from guarantees, management fees for the EIF managing the Union's resources, and any other eligible costs or expenses.

6. Visibility and awareness-raising

The EIF shall contribute to the promotion of the Guarantee Facility vis-à-vis the European banking sector. Additionally, each participating financial intermediary and the EIF shall ensure that an appropriate level of visibility and transparency is given to the support under the Guarantee Facility, by providing information on the financial opportunities to the target SMEs and micro, small and medium-sized organisations.

To that end, the Commission shall, inter alia, provide the network of Creative Europe Desks with the necessary information to enable them to carry out their tasks.

7. Types of loan

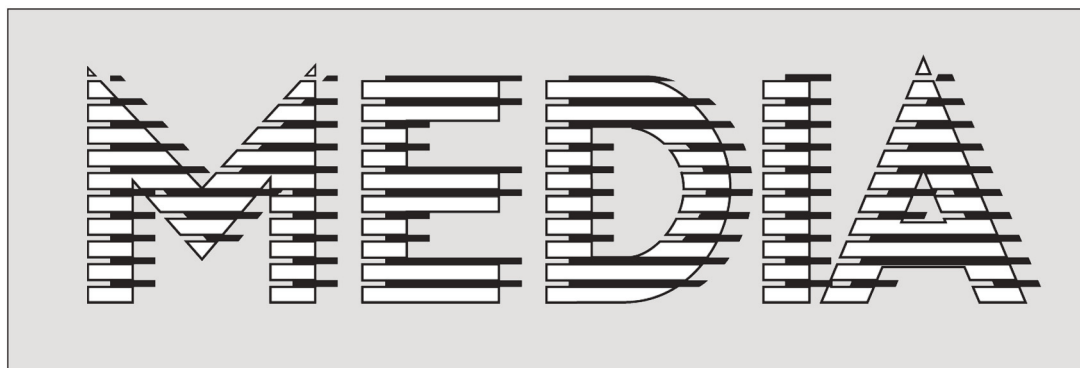
Types of loan covered by the Guarantee Facility shall include, in particular:

- (a) investment in tangible or intangible assets;
 - (b) business transfers;
 - (c) working capital (such as interim finance, gap finance, cash flow, credit lines).
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ANNEX II

LOGO OF THE MEDIA SUB PROGRAMME

The MEDIA Sub programme logo shall be as follows:



**REGULATION (EU) No 1296/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

**on a European Union Programme for Employment and Social Innovation ("EaSI") and amending
Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment
and social inclusion**

(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 46(d), Article 149, Article 153(2)(a) and to the third paragraph of Article 175 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

(1) In line with the Commission Communication of 29 June 2011 entitled 'A budget for Europe 2020', which recommends rationalising and simplifying the Union's funding instruments and sharpening their focus both on Union added value and on impacts and results, this Regulation establishes a European Union Programme for Employment and Social Innovation ('the Programme') to provide for the continuation and development of activities carried out on the basis of Decision No 1672/2006/EC of the European Parliament and of the Council ⁽⁴⁾, Regulation (EU) No 492/2011 of the European Parliament and of the Council ⁽⁵⁾, Commission Implementing Decision 2012/733/EU ⁽⁶⁾ and Decision No 283/2010/EU of the European Parliament and of

the Council that established a European Progress Microfinance Facility for employment and social inclusion ⁽⁷⁾ ('the Facility').

(2) On 17 June 2010, the European Council endorsed the Commission proposal for a Europe 2020 Strategy for jobs and smart, sustainable and inclusive growth ("Europe 2020"), which provides for five headline targets (including those dealing with employment, the fight against poverty and social exclusion, and education, respectively), and seven flagship initiatives, and which constitutes a coherent policy framework for the coming decade. The European Council advocated full mobilisation of the appropriate Union instruments and policies to support the achievement of the common objectives, and invited the Member States to increase their coordinated action.

(3) In accordance with Article 148(4) of the Treaty on the Functioning of the European Union (TFEU), the Council, on 21 October 2010, adopted guidelines for employment policies which, together with the broad guidelines for the economic policies of the Member States and of the Union adopted in accordance with Article 121 TFEU, comprise the Europe 2020 integrated guidelines. The Programme should contribute to achieving the Europe 2020 targets, especially its poverty reduction and employment objectives, as defined in the Employment Guidelines. To that end, the Programme should support the implementation of the flagship initiatives, with special regard to the European Platform against Poverty and Social Exclusion, an Agenda for New Skills and Jobs, and Youth on the Move, as well as the Youth Employment Package.

(4) The Europe 2020 flagship initiatives entitled "European Platform against Poverty and Social Exclusion" and "Innovation Union" identify social innovation as a powerful tool for addressing the social challenges arising from population ageing, poverty, unemployment, new work patterns and life styles, and the expectations of citizens regarding social justice, education and health care. The Programme should support action to increase social innovation, in response to social needs that are not met or that are met insufficiently, in respect of combating poverty and social exclusion, promoting a high level of quality and sustainable employment, guaranteeing adequate and poverty-preventing social protection, improving working conditions and improving access to training for vulnerable people,

⁽¹⁾ OJ C 143, 22.5.2012, p. 88.

⁽²⁾ OJ C 225, 27.7.2012, p. 167.

⁽³⁾ Position of the European Parliament of 21 November 2013. (not yet published in the Official Journal)

⁽⁴⁾ Decision No 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity – PROGRESS (OJ L 315, 15.11.2006, p. 1).

⁽⁵⁾ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ L 141, 27.5.2011, p. 1).

⁽⁶⁾ Commission Implementing Decision 2012/733/EU of 26 November 2012 implementing Regulation (EU) No 492/2011 of the European Parliament and of the Council as regards the clearance of vacancies and application for employment and the re-establishment of EURES (OJ L 328, 28.11.2012, p. 21).

⁽⁷⁾ Decision No 283/2010/EU of the European Parliament and of the Council of 25 March 2010 establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 87, 7.4.2010, p. 1).

- taking due account of the role of regional and local authorities. The Programme should also act as a catalyst for transnational partnerships and networking between public, private and third-sector actors, as well as supporting their involvement in designing and implementing new approaches to tackling pressing social needs and challenges.
- (5) In particular, the Programme should help to identify and to analyse innovative solutions, and to scale up their practical implementation, through social policy experimentation, so as to assist, where necessary, Member States to increase the efficiency of their labour markets and to further improve their social protection and inclusion policies. Social policy experimentation is project-based field testing of social innovations. It allows the gathering of evidence on the feasibility of social innovations. It should be possible for successful ideas to be pursued on a wider scale with financial support from the European Social Fund (ESF), as well as from other sources.
- (6) The open method of coordination, which has proved its flexibility and operational effectiveness in employment and social policy areas, should be widely used and should benefit from actions supported by the Programme.
- (7) Progress towards socially and environmentally sustainable development in Europe requires the anticipation and development of new skills and competencies, leading to an improvement in the conditions for job creation, in the quality of employment and in working conditions, through accompanying education, labour market and social policies in connection with the transformation of industries and services. The Programme should, therefore, contribute to promoting the creation of quality and sustainable 'green', 'white' and ICT jobs, as well as to anticipating and developing new skills and competencies for new quality and sustainable jobs, by linking employment and social policies with industrial and structural policies and by supporting a transition towards a resource-efficient and low carbon economy. In particular, the Programme should act as a catalyst for exploring the job creation potential of public sector-led green and social investments and of local and regional employment initiatives.
- (8) The Programme should, where relevant, take account of the territorial dimension of unemployment, poverty and social exclusion, and especially of the increasing inequalities that exist within and between regions, between rural areas and cities and within cities.
- (9) It is necessary to consolidate the social dimensions of the internal market. Given the need to enhance confidence in the internal market, including the free movement of services, through ensuring respect for workers' rights, it is necessary to ensure that the respective rights of workers and entrepreneurs to freedom of movement are accorded equal status throughout the Union.
- (10) In line with Europe 2020, the Programme should pursue a coherent approach to promoting quality and sustainable employment, as well as to combating and preventing social exclusion and poverty, while taking into account the need to respect equality between women and men. The implementation of the Programme should be rationalised and simplified, notably through the establishment of a set of common provisions including, inter alia, general objectives and monitoring and evaluation arrangements. The Programme should focus on projects, irrespective of their size, with clear Union added value. In order to reduce administrative burdens, the Programme should support the creation and development of networks and partnerships. In addition, greater use should be made of simplified cost options (lump-sum and flat-rate financing), in particular for the implementation of mobility schemes, while ensuring transparency of proceedings. The Programme should be a "one-stop shop" for microfinance providers at Union level, providing financing for micro-credits and social entrepreneurship, facilitating access to borrowing and providing technical assistance.
- (11) Taking into account the limited funds available to the Programme and the pre-allocation of these funds to the various axes, funding priority should be given to the development of structures with a clear multiplier effect which will benefit further activities and initiatives. Appropriate measures should also be put in place to avoid any possibility of overlap or double-financing with other funds or programmes, in particular the ESF.
- (12) The Union should equip itself with evidence based on a sound analysis in order to support policy-making in the employment and social area, paying special attention to the impact of financial and economic crises. Such evidence adds value to national action by providing a Union dimension and a comparison for data-gathering and by developing statistical tools and methods and common indicators, for the purpose of composing a full picture of the situation in the fields of employment, social policy and working conditions across the Union and of ensuring high-quality evaluation of the efficiency and effectiveness of programmes and policies with a view, inter alia, to reaching the Europe 2020 targets.

- (13) The Union is uniquely placed to provide a platform for policy exchanges and mutual-learning between countries participating in the Programme in the areas of employment, social protection and social inclusion, as well as social entrepreneurship. Knowledge of policies applied in other countries and of their results, including those achieved through social policy experimentation at local, regional and national level, broadens the range of options available to policy-makers, thereby triggering new policy developments.
- (14) Ensuring that minimum standards are in place and that working conditions improve constantly in the Union is a central feature of Union social policy. The Union has an important role to play in ensuring that the legislative framework is adapted to evolving work patterns and new health and safety risks, taking into account 'decent work' as well as 'Smart Regulation' principles. The Union also has an important role to play in financing measures to improve compliance with labour standards under ratified International Labour Organisation (ILO) conventions and Union rules on the protection of workers' rights. This is particularly the case of measures for raising awareness (e.g. through a social label), for disseminating information and for promoting the debate about the key challenges and policy issues in relation to working conditions, including among the social partners and other stakeholders, as well as for promoting work-life balance measures, for initiating preventive actions and for fostering the prevention culture in the field of health and safety at work.
- (15) Social partners and civil society organisations play a key role in promoting quality employment and combating social exclusion and poverty, as well as in fighting unemployment. Therefore, the social partners and civil society organisations should, where appropriate, be involved in mutual learning and in the development, implementation and dissemination of new policies. The Commission should inform and exchange views with Union social partners and the civil society organisations on the results concerning the implementation of the Programme.
- (16) The Union is committed to strengthening the social dimension of globalisation, and to combating social dumping, by promoting decent work and labour standards, not only in countries participating in the Programme, but also internationally, either directly vis-à-vis third countries or indirectly through cooperation with international organisations. Accordingly, suitable relations need to be developed with third countries not participating in the Programme in order to help achieve its objectives, having regard to any agreements of relevance between such countries and the Union. This may involve the attendance of representatives of those third countries at events of mutual interest (such as conferences, workshops and seminars) that take place in countries participating in the Programme. In addition, cooperation should be developed with the international organisations concerned, in particular the ILO and other relevant United Nations bodies, the Council of Europe and the Organisation for Economic Cooperation and Development (OECD), with a view to implementing the Programme in a way that takes the role of such organisations into account.
- (17) In accordance with Articles 45 and 46 TFEU, Regulation (EU) No 492/2011 lays down provisions intended to achieve freedom of movement for workers on a non-discriminatory basis by ensuring the close cooperation of the central employment services of Member States with one another and with the Commission. EURES, which is the European network of employment services, should promote the better functioning of the labour markets by facilitating the voluntary transnational cross-border geographical mobility of workers, providing greater transparency on the labour market, ensuring the clearance of vacancies and applications for employment and supporting activities in the areas of placement, recruitment, advice and guidance services at national and cross-border level, thereby contributing to the objectives of Europe 2020. Member States should be encouraged to integrate EURES services, making them available in a "one-stop shop", where appropriate.
- (18) The scope of EURES should be broadened to include developing and supporting targeted mobility schemes, after calls for proposals, at Union level with a view to filling vacancies where labour market shortcomings have been identified. In accordance with Article 47 TFEU, those schemes should support facilitating voluntary mobility among young workers in the Union. Targeted mobility schemes, such as those based on the preparatory action 'Your first EURES job', should make it easier for young people to access employment opportunities and to take up a job in another Member State, and should also encourage employers to create job openings for young mobile workers. Nevertheless, mobility schemes should not discourage the Union and Member States from helping young people to find a job in their home country.
- (19) In many border regions EURES cross-border partnerships play an important role in developing a genuine European labour market. EURES cross-border partnerships involve at least two Member States or a Member State and another participating country. Consequently, they are clearly horizontal in nature, and are a source of Union added value. EURES cross-border partnerships should therefore continue to be supported through horizontal Union activities, with the possibility of being complemented by national resources or by the ESF.

- (20) The evaluation of EURES activities should take qualitative and quantitative criteria into account. Since outgoing placements in one Member State result in incoming placements in another and depend on the ever-changing labour market situations and related mobility patterns, the evaluation should focus not only on incoming or outgoing placements in individual Member States but also on aggregated figures at Union level. Furthermore, it should be borne in mind that counselling does not necessarily result in measurable mobility or in job placements.
- (21) Europe 2020, and in particular Guideline 7 provided for in Council Decision 2010/707/EU ⁽¹⁾, identifies self-employment and entrepreneurship as crucial to achieving smart, sustainable and inclusive growth.
- (22) Lack of access to credit, equity or quasi-equity is one of the main obstacles to business creation, especially among people furthest from the labour market. Union and national efforts in this area need to be intensified in order to increase the supply of, and access to, microfinance so as to meet demand from those who need it most, and in particular the unemployed, women and vulnerable people who wish to start up or develop a micro-enterprise, including on a self-employed basis, but who do not have access to credit. In addition, micro-enterprises make up the majority of newly-formed companies in the Union. Therefore, it should be possible for microcredits to provide a means of adding value and achieving concrete results rapidly. As a first step, in 2010 the European Parliament and the Council set up the Facility. Communication activities on microfinance opportunities at Union and Member State level should be improved so as to better reach those in need of micro-financing.
- (23) Microfinancing and support to social entrepreneurship should reach potential beneficiaries and should have long-lasting impact. They should contribute to a high level of quality and sustainable employment and serve as a catalyst for both economic and local development policies. In order to maximise the opportunities for creating viable enterprises, actions involving microfinance and social entrepreneurship should be accompanied by mentoring and training programmes and all relevant information, which should be regularly updated and made available to the public by the finance provider concerned. To this end, it is essential that adequate financing be provided, notably through the ESF.
- (24) Making microfinance more available on the Union's young microfinance market makes it necessary for the institutional capacity of microfinance providers, and in particular of non-bank microfinance institutions, to be increased in line with the Commission Communication of 13 November 2007 entitled 'A European Initiative for the development of micro-credit in support of growth and employment' and the Commission Report of 25 July 2008 entitled 'Promotion of Women Innovators and Entrepreneurship'.
- (25) The social economy and social entrepreneurship constitute an integral part of Europe's pluralist social market economy, and play an important role in ensuring greater social convergence in Europe. They are founded on the principles of solidarity and responsibility and of the primacy of the individual and of social objectives over capital, and on the promotion of social responsibility, social cohesion and social inclusion. Social enterprises can act as drivers of social change by offering innovative solutions, promoting inclusive labour markets and social services accessible to all. They therefore make a valuable contribution to meeting the objectives of Europe 2020. The Programme should improve access by social enterprises to different types of finance by providing suitable instruments to meet their specific financial needs throughout their lifecycle.
- (26) In order to capitalise on the experience of entities such as the European Investment Bank Group, action involving microfinance and social entrepreneurship should be implemented by the Commission indirectly by entrusting budget implementation tasks to such entities in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²⁾ ("the Financial Regulation"). The use of Union resources concentrates leverage from international financial institutions and other investors, creates synergies between Member State and Union action and unifies approaches. It thus improves the access to finance of particular at-risk groups and young people, as well as the outreach of microfinance to them. Access to finance for micro-enterprises, including the self-employed and social enterprises, is also improved. The Union contribution thus assists in the development of the emerging social business sector and the microfinance market in the Union and encourages cross-border activities. The Union's actions should complement the use by Member States of financial instruments for microfinance and social entrepreneurship. The entities entrusted with the implementation of the actions should ensure that they add Union value and do not duplicate other financing through Union resources.

⁽¹⁾ Council Decision 2010/707/EU of 21 October 2010 on guidelines for the employment policies of the Member States (OJ L 308, 24.11.2010, p. 46).

⁽²⁾ 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).

- (27) In accordance with Europe 2020, the Programme should contribute to tackling the pressing problem of youth unemployment. Young people should, therefore, be given a future and the prospect of playing a key role in developing society and the economy in Europe, which is of particular importance in times of crisis.
- (28) The Programme should also point to the special role and importance of small enterprises regarding training, expertise and traditional know-how, as well as ensure that young people have access to microfinance. The Programme should facilitate the exchange of best practices between the Member States and other countries participating in the Programme in all those areas.
- (29) Actions under the Programme should support the implementation by the Member States and labour market actors of Council Recommendation of 22 April 2013 ⁽¹⁾ concerning the establishment of a Youth Guarantee. That Recommendation states that all young people under the age of 25 should receive a good-quality offer of employment, continued education, an apprenticeship or a traineeship within a period of four months of becoming unemployed or leaving formal education. The Programme should facilitate the exchange of best practice between the Member States and other countries participating in the Programme in this area.
- (30) Pursuant to Article 3(3) of the Treaty on European Union (TEU) and Article 8 TFEU, it is necessary to ensure that the Programme contributes to the promotion of equality between women and men in all its axes and activities, including through gender mainstreaming and, where relevant, through specific action to promote women's employment and social inclusion. Pursuant to Article 10 TFEU, the Programme should ensure that the implementation of its priorities contributes to combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Monitoring and evaluation should be carried out to assess the way in which anti-discrimination issues are addressed in the Programme's activities.
- (31) The Progress Programme for the period 2007-2013 includes sections entitled 'Antidiscrimination and diversity' and 'Gender equality' that are to be continued and further developed under the Rights, Equality and Citizenship Programme for the period 2014-2020. It is, however, of the utmost importance to maintain a strong focus on equality between women and men and on anti-discrimination issues in all relevant initiatives and actions covered by this Programme, especially in the fields of improving women's labour force participation, working conditions and promoting a better balance between professional and private lives.
- (32) Pursuant to Article 9 TFEU and the objectives of Europe 2020, the Programme should contribute to ensuring a high-level of quality and sustainable employment, to guaranteeing adequate social protection and to combating poverty and social exclusion, and should take into account the requirements linked to a high level of protection of human health.
- (33) The Programme should complement other Union programmes, while acknowledging that each instrument should operate in accordance with its own specific procedures. Thus, the same eligible costs should not result in double funding. With the aim of adding value and achieving substantial impact through Union funding, close synergies should be developed between the Programme, other Union programmes and the Structural Funds, especially the ESF and the Youth Employment Initiative. The Programme should complement other Union programmes and initiatives that focus on combating youth unemployment.
- (34) The Programme should be implemented in a way that makes it easier for the competent authority or authorities of each Member State to contribute to meeting the Programme's objectives.
- (35) To ensure more efficient communication to the public at large and stronger synergies between the communication actions undertaken at the initiative of the Commission, the resources allocated to information and communication activities under this Programme should also contribute to corporate communication of, and to the provision of information on, the political priorities of the Union related to the general objectives of this Programme.
- (36) This Regulation lays down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of Point 17 of the Interinstitutional Agreement [of 2 December 2013] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽²⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (37) 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, penalties in accordance with the Financial Regulation.

⁽¹⁾ Council Recommendation of 22 April 2013 on establishing a Youth Guarantee (OJ C 120, 26.4.2013, p. 1).

⁽²⁾ OJ C 373, 20.12.2013, p. 1.

(38) In order to ensure that the Programme is sufficiently flexible to respond to changing needs and corresponding policy priorities throughout its duration, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the reallocation of funds between the axes and to the individual thematic sections within the axes of the Programme. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

(39) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.

(40) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

TITLE I

COMMON PROVISIONS

Article 1

Subject matter

1. This Regulation establishes a European Union Programme for Employment and Social Innovation ('the Programme') which aims to contribute to the implementation of Europe 2020, including its headline targets, Integrated Guidelines and flagship initiatives, by providing financial support for the Union's objectives in terms of promoting a high level of quality and sustainable employment, guaranteeing adequate and decent social protection, combating social exclusion and poverty and improving working conditions.

2. The Programme shall run from 1 January 2014 to 31 December 2020.

Article 2

Definitions

For the purposes of this Regulation:

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(1) 'social enterprise' means an undertaking, regardless of its legal form, which:

(a) in accordance with its Articles of Association, Statutes or with any other legal document by which it is established, has as its primary objective the achievement of measurable, positive social impacts rather than generating profit for its owners, members and shareholders, and which:

(i) provides services or goods which generate a social return and/or

(ii) employs a method of production of goods or services that embodies its social objective;

(b) uses its profits first and foremost to achieve its primary objective and has predefined procedures and rules covering any distribution of profits to shareholders and owners that ensure that such distribution does not undermine the primary objective; and

(c) is managed in an entrepreneurial, accountable and transparent way, in particular by involving workers, customers and stakeholders affected by its business activities;

(2) 'microcredit' means a loan of up to EUR 25 000;

(3) 'micro-enterprise' means an enterprise, including a self-employed person, that employs fewer than 10 people and whose annual turnover or annual balance sheet total does not exceed EUR 2 million, in accordance with Commission Recommendation 2003/361/EC ⁽²⁾,

(4) 'microfinance' includes guarantees, microcredit, equity and quasi-equity extended to persons and micro-enterprises that experience difficulties accessing credit;

(5) 'social innovations' are innovations that are social both as to their ends and their means and in particular those which relate to the development and implementation of new ideas (concerning products, services and models), that simultaneously meet social needs and create new social relationships or collaborations, thereby benefiting society and boosting its capacity to act;

⁽²⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- (6) 'social policy experimentation' means policy interventions that offer an innovative response to social needs, implemented on a small scale and in conditions that enable their impact to be measured, prior to being repeated on a larger scale, if the results prove convincing.

Article 3

Structure of the Programme

1. The Programme shall be made up of the following three complementarity axes:

- (a) The Progress axis, which shall support the development, implementation, monitoring and evaluation of the Union instruments and policies referred to in Article 1 and relevant Union law, and which shall promote evidence-based policy-making, social innovation and social progress, in partnership with the social partners, civil society organisations and public and private bodies;
- (b) The EURES axis, which shall support activities carried out by EURES, namely, the specialist services designated by the EEA states and the Swiss Confederation, together with social partners, other employment service providers and other interested parties, to develop information exchanges and dissemination and other forms of cooperation, such as cross-border partnerships, to promote voluntary geographical mobility for workers on a fair basis and to contribute to a high level of quality and sustainable employment;
- (c) The Microfinance and Social Entrepreneurship axis, which shall increase the access to, and the availability of, financing for legal and physical persons, pursuant to Article 26.

2. The common provisions laid down in this Title shall apply to all three axes set out in points (a), (b) and (c) of paragraph 1, in addition to specific provisions of Title II.

Article 4

General objectives of the Programme

1. The Programme shall seek to achieve the following general objectives:

- (a) strengthen ownership among policy-makers at all levels, and produce concrete, coordinated and innovative actions at both Union and Member State level, in respect of the Union objectives in the fields referred to in Article 1, in close collaboration with the social partners, as well as civil society organisations and public and private bodies;
- (b) support the development of adequate, accessible and efficient social protection systems and labour markets and

facilitate policy reform, in the fields referred to in Article 1, notably by promoting decent work and working conditions, a prevention culture for health and safety at work, a healthier balance between professional and private life and good governance for social objectives, including convergence, as well as mutual learning and social innovation;

- (c) ensure that Union law on matters relating to the fields referred to in Article 1 is effectively applied, and, where necessary, contribute to modernising Union law, in line with decent work principles and taking into account the Smart Regulation principles;

- (d) promote workers' voluntary geographical mobility on a fair basis and boost employment opportunities by developing high-quality and inclusive Union labour markets that are open and accessible to all, while respecting workers' rights throughout the Union, including freedom of movement;

- (e) promote employment and social inclusion by increasing the availability and accessibility of microfinance for vulnerable people who wish to start up a micro-enterprise as well as for existing micro-enterprises, and by increasing access to finance for social enterprises.

2. In pursuing those objectives, the Programme shall, in all its axes and actions, aim to:

- (a) pay particular attention to vulnerable groups, such as young people;
- (b) promote equality between women and men, including through gender mainstreaming and, where appropriate, gender budgeting;
- (c) combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;
- (d) when defining and implementing the Union's policies and activities, promote a high-level of quality and sustainable employment, guarantee adequate and decent social protection, combat long-term unemployment and fight against poverty and social exclusion.

Article 5

Budget

1. The financial envelope for the implementation of the Programme for the period from 1 January 2014 to 31 December 2020 shall amount to EUR 919 469 000, in current prices.

2. The following indicative percentages shall be allocated to the axes set out in Article 3(1):

- (a) 61 % to the Progress axis;

(b) 18 % to the EURES axis;

(c) 21 % to the Microfinance and Social Entrepreneurship axis.

3. The Commission may make use of up to 2 % of the financial envelope referred to in paragraph 1 to finance operational expenditure for the support of the implementation of the Programme.

4. The Commission may make use of the financial envelope referred to in paragraph 1 to finance technical and/or administrative assistance, in particular relating to auditing, outsourcing of translation, meetings of experts, and information and communication activities for the mutual benefit of the Commission and the beneficiaries.

5. Annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

Article 6

Joint action

Actions eligible under the Programme may be implemented jointly with other Union instruments, provided that such actions meet the objectives of both the Programme and the other instruments concerned.

Article 7

Consistency and complementarity

1. The Commission, in cooperation with the Member States, shall ensure that activities carried out under the Programme are consistent with, and complementary to, other Union action, such as the European Structural and Investment Funds (ESIFs), as specified in the Common Strategic Framework laid down in Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽¹⁾, and in particular under the ESF.

2. The Programme shall complement other Union programmes, without prejudice to the specific procedures of those programmes. The same eligible costs shall not result in double funding, and close synergies shall be developed between the Programme, other Union programmes and ESIFs, in particular the ESF.

3. The activities supported by the Programme shall comply with Union and national law, including state aid rules, and fundamental ILO Conventions.

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (See page 320 of this Official Journal).

4. Consistency and complementarity shall also be ensured through close involvement by local and regional authorities.

Article 8

Cooperation with relevant bodies

The Commission shall establish the necessary links with the Employment Committee, the Social Protection Committee, the Advisory Committee on Health and Safety at Work, the Group of Directors-General for Industrial Relations and the Advisory Committee on Freedom of Movement of Workers in order to ensure that they are regularly and appropriately informed of progress in implementing the Programme. The Commission shall also inform other committees dealing with policies, instruments and actions of relevance to the Programme.

Article 9

Dissemination of results and communication

1. The Commission shall inform Union stakeholders, including social partners and civil society organisations, of the results of the implementation of the Programme and shall invite an exchange of views in that regard.

2. The results of the actions implemented under the Programme shall be regularly and suitably communicated and disseminated to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, as well as to the social partners and to the public in order to maximise their impact, sustainability and Union added value.

3. Communication activities shall also contribute to corporate communication of the political priorities of the Union as far as they relate to the general objectives of this Regulation, and shall provide information on those priorities to the public.

Article 10

Financial provisions

1. The Commission shall manage the Programme in accordance with the Financial Regulation.

2. The grant agreement shall specify what part of the Union financial contribution will be based on the reimbursement of actual eligible costs, and what part will be based on flat rates, unit costs or lump-sums.

Article 11

Protection of the financial interests of the Union

1. The Commission shall take appropriate preventive measures to ensure that, when actions financed under this Programme are implemented, the financial interests of the Union are protected against fraud, corruption and any other illegal activities, by effective checks and that, if irregularities are detected, resources are recovered, primarily via offsetting of amounts wrongly paid but, where appropriate, by

imposing effective, proportionate and dissuasive penalties, in accordance with Article 325 TFEU, Council Regulation (EC, Euratom) No 2988/95 ⁽¹⁾ and the Financial Regulation.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks, in respect of all grant beneficiaries, contractors and subcontractors who have received Union funds under the Programme.

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 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾ and Council Regulation (Euratom, EC) No 2185/96 ⁽³⁾ with a view to establishing whether fraud, corruption or any other illegal activity has occurred affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under the Programme.

4. Without prejudice to paragraphs 1, 2 and 3, contracts, grant agreements and grant decisions, resulting from the implementation of this Programme shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct the audits and investigations referred to in those paragraphs, in accordance with their respective competences.

Article 12

Monitoring

With a view to regular monitoring of the Programme and to making any adjustments needed to its policy and funding priorities, the Commission shall draw up an initial qualitative and quantitative monitoring report covering the first year, followed by three reports covering consecutive two-year periods and shall send those reports to the European Parliament and the Council. The reports shall also be transmitted, for information purposes, to the European Economic and Social Committee and the Committee of the Regions. The reports shall cover the Programme's results and the extent to which the principles of equality between women and men and gender mainstreaming have been applied, as well as how anti-discrimination considerations, including accessibility issues, have been addressed through its activities. The reports shall be made available to the public in order to enhance the transparency of the Programme.

⁽¹⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312, 23.12.1995, p. 1).

⁽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⁾ 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).

Article 13

Evaluation

1. A mid-term evaluation of the Programme shall be carried out by 1 July 2017 to measure, on a qualitative and quantitative basis, progress made in meeting the Programme's objectives, to address the social environment within the Union and any major changes introduced by Union legislation, to determine whether the resources of the Programme have been used efficiently and to assess its Union added value. The results of that mid-term evaluation shall be presented to the European Parliament and to the Council.

2. If the evaluation referred to in paragraph 1 of this Article, or any evaluation carried out pursuant to Article 19 of Decision No 1672/2006/EC or Article 9 of Decision No 283/2010/EU, reveals that the Programme has major shortcomings, the Commission shall, if appropriate, submit a proposal to the European Parliament and to the Council, including appropriate amendments to the Programme to take account of the results of the evaluation.

3. Before submitting any proposal for a prolongation of the Programme beyond 2020, the Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an evaluation of the conceptual strengths and weaknesses of the Programme in the period 2014 to 2020.

4. By 31 December 2022, the Commission shall evaluate ex-post the impact and Union added value of the Programme and shall forward a report containing that evaluation to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The report shall be made available to the public.

TITLE II

PROVISIONS SPECIFIC TO PROGRAMME AXES

CHAPTER I

Progress Axis

Article 14

Thematic sections and financing

1. The Progress axis shall support actions in one or more of the thematic sections listed in points (a), (b) and (c). Over the entire period of the Programme, the indicative breakdown of the allocation set out in point (a) of Article 5(2) between the different sections shall respect the following minimum percentages:

- (a) employment, in particular to fight youth unemployment: 20 %;
- (b) social protection, social inclusion and the reduction and prevention of poverty: 50 %;
- (c) working conditions: 10 %.

Any remainder shall be allocated to one or more of the thematic sections referred to in points (a), (b) or (c) or to a combination of them.

2. From the overall allocation for the Progress axis, and within its different thematic sections, 15 % to 20 % shall be allocated to the promotion of social experimentation as a method for testing and evaluating innovative solutions with a view to up-scaling them.

Article 15

Specific objectives

In addition to the general objectives set out in Article 4, the specific objectives of the Progress axis shall be to:

- (a) develop and disseminate high-quality comparative analytical knowledge, in order to ensure that Union policies in the fields referred to in Article 1 are based on sound evidence and are relevant to needs, challenges and conditions in the individual Member States and other countries participating in the Programme;
- (b) facilitate effective and inclusive information-sharing, mutual learning and dialogue on Union policies in the fields referred to in Article 1, at Union, national and international level in order to assist the Member States and other countries participating in the Programme in developing their policies and the Member States in implementing Union law;
- (c) provide financial support to test social and labour market policy innovations, and, where necessary, to build up the main actors' capacity to design and implement social policy experimentation, and to make the relevant knowledge and expertise accessible;
- (d) provide Union and national organisations with financial support to increase their capacity to develop, promote and support the implementation of Union instruments and policies as referred to in Article 1 and relevant Union law.

Article 16

Types of actions

The following types of actions may be financed under the Progress axis:

1. Analytical activities:

- (a) gathering of data and statistics, taking account of both qualitative and quantitative criteria, and developing common methodologies, classifications, micro-simulations, indicators and benchmarks, where appropriate broken down by sex and age-group;

- (b) surveys, studies, analyses and reports, including through the funding of networks of experts and development of expertise in thematic sections;

- (c) qualitative and quantitative evaluations and impact assessments carried out by both public and private bodies;

- (d) monitoring and assessment of the transposition and application of Union law;

- (e) preparation and implementation of social policy experimentation as a method for testing and evaluating innovative solutions with a view to up-scaling them;

- (f) dissemination of the results of those analytical activities.

2. Mutual-learning, awareness and dissemination activities:

- (a) exchanges and dissemination of good practice, innovative approaches and experience, peer reviews, benchmarking and mutual learning at European level;

- (b) Council Presidency events, conferences and seminars;

- (c) training of legal and policy practitioners;

- (d) drafting and publication of guides, reports and educational material and measures relating to information, communication and media coverage of initiatives supported by the Programme;

- (e) information and communication activities;

- (f) development and maintenance of information systems in order to exchange and disseminate information on Union policy and legislation and on the labour market.

3. Support with regard to:

- (a) the operating costs of key Union-level networks the activities of which relate to and contribute to the objectives of the Progress axis;

- (b) capacity-building of national administrations and specialist services responsible for promoting geographical mobility designated by the Member States and micro-credit providers;

- (c) organisation of working groups of national officials to monitor the implementation of Union law;

- (d) networking and cooperation among specialist bodies and other relevant stakeholders, national, regional and local authorities and employment services at European level;
- (e) funding of European-level observatories, including on key thematic sections;
- (f) exchange of personnel between national administrations.

Article 17

Union co-financing

Where activities under the Progress axis are financed following a call for proposals, they may receive Union co-financing which shall not exceed, as a general rule, 80 % of the total eligible expenditure. Any financial support in excess of this ceiling shall only be granted in duly justified exceptional circumstances.

Article 18

Participation

1. Participation in the Progress axis shall be open to:
 - (a) Member States;
 - (b) EEA countries, in accordance with the EEA Agreement, and EFTA member states;
 - (c) the candidate countries and potential candidates, in accordance with the general principles and the general terms and conditions laid down in the framework agreements concluded with them on their participation in Union programmes.
2. The Progress axis shall be open to all public and/or private bodies, actors and institutions, and in particular:
 - (a) national, regional and local authorities;
 - (b) employment services;
 - (c) specialist bodies provided for under Union law;
 - (d) the social partners;
 - (e) non-governmental organisations;
 - (f) higher education institutions and research institutes;
 - (g) experts in evaluation and in impact assessment;
 - (h) national statistical offices;
 - (i) the media.

3. The Commission may cooperate with international organisations, and in particular with the Council of Europe, the OECD, the ILO, with other United Nations bodies and with the World Bank.

4. The Commission may cooperate with third countries which are not participating in the Programme. Representatives of such third countries may attend events of mutual interest (such as conferences, workshops and seminars) that take place in countries participating in the Programme, and the cost of their attendance may be covered by the Programme.

CHAPTER II

EURES Axis

Article 19

Thematic sections and financing

The EURES axis shall support actions in one or more of the thematic sections listed in points (a), (b) and (c). Over the entire period of the Programme, the indicative breakdown of the allocation set out in point (b) of Article 5(2) between the different sections shall respect the following minimum percentages:

- (a) transparency of job vacancies, applications and any related information for applicants and employers: 32 %;
- (b) development of services for the recruitment and placing of workers in employment through the clearance of job vacancies and applications at Union level, in particular targeted mobility schemes: 30 %;
- (c) cross-border partnerships: 18 %.

Any remainder shall be allocated to one or more of the thematic sections referred to in points (a), (b), or (c), or to a combination of them.

Article 20

Specific objectives

In addition to the general objectives set out in Article 4, the specific objectives of the EURES axis shall be to:

- (a) ensure that job vacancies and applications and corresponding information and advice, as well as any related information such as that concerning living and working conditions, are made transparent for the potential applicants and the employers, respectively. This shall be achieved through exchange and dissemination at transnational, interregional and cross-border level, through the use of standard interoperability forms for job vacancies and applications and through other suitable means, such as individual counselling and mentoring, especially for the low skilled;

- (b) support the provision of EURES services for the recruitment and placing of workers in quality and sustainable employment through the clearance of job vacancies and applications; support for EURES services shall extend to various phases of placement, ranging from pre-recruitment preparation to post-placement assistance with a view to the applicant's successful integration into the labour market; such support services may include targeted mobility schemes to fill job vacancies in a certain sector, occupation, country or a group of countries or for particular groups of workers, such as young people, with a propensity to be mobile, where a clear economic need has been identified.

Article 21

Types of Actions

The EURES axis may be used to finance actions to promote voluntary mobility of individuals in the Union, on a fair basis, and to remove mobility obstacles, and in particular:

- (a) the development and the activities of EURES cross-border partnerships where requested by services territorially responsible for border regions;
- (b) the provision of information, counselling, placement and recruitment services for cross-border workers;
- (c) the development of the multilingual digital platform for the clearance of job vacancies and applications;
- (d) the development of targeted mobility schemes, following calls for proposals, to fill job vacancies where labour market shortcomings have been identified, and/or to help workers with a propensity to be mobile, where a clear economic need has been identified;
- (e) mutual learning among EURES actors and training of EURES advisors, including EURES cross-border partnership advisors;
- (f) information and communication activities to raise awareness of the benefits of geographical and occupational mobility in general and of the activities and services provided by EURES.

Article 22

Union co-financing

Where activities under the EURES axis are financed following a call for proposals, they may receive Union co-financing which shall not exceed, as a general rule, 95 % of the total eligible expenditure. Any financial support in excess of this ceiling shall only be granted in duly justified exceptional circumstances.

Article 23

Monitoring of Mobility Patterns

In order to detect and prevent negative effects arising in connection with inter-Union geographical mobility, the Commission shall, together with the Member States, in accordance with Article 12 of Regulation (EU) No 492/2011, regularly monitor mobility flows and patterns.

Article 24

Participation

1. Participation in the EURES axis shall be open to:

- (a) Member States;
- (b) EEA countries, in accordance with the EEA Agreement, and the Swiss Confederation, in accordance with the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons ⁽¹⁾.

2. The EURES axis shall be open to all bodies, actors and institutions designated by a Member State or by the Commission which fulfil the conditions for participating in EURES, as set out in Commission Implementing Decision 2012/733/EU. Such bodies, actors and institutions shall include in particular:

- (a) national, regional and local authorities;
- (b) employment services;
- (c) social partner organisations and other interested parties.

CHAPTER III

Microfinance and Social Entrepreneurship Axis

Article 25

Thematic sections and financing

The Microfinance and Social Entrepreneurship axis shall support actions in one or more of the thematic sections listed in points (a) and (b). Over the entire period of the Programme, the indicative breakdown of the allocation set out in point (c) of Article 5(2) between the different sections shall respect the following minimum percentages:

- (a) microfinance for vulnerable groups and micro-enterprises: 45 %;
- (b) social entrepreneurship: 45 %.

⁽¹⁾ OJ L 114, 30.4.2002, p. 6.

Any remainder shall be allocated to the thematic sections referred to in points (a) or (b) or to a combination of them.

Article 26

Specific objectives

In addition to the general objectives set out in Article 4, the specific objectives of the Microfinance and Social Entrepreneurship axis shall be to:

- (a) increase access to, and the availability of, microfinance for:
 - (i) vulnerable persons who have lost or are at risk of losing their job, or have difficulty in entering or re-entering the labour market, or are at risk of social exclusion, or are socially excluded, and are in a disadvantaged position with regard to access to the conventional credit market and who wish to start up or develop their own micro-enterprises;
 - (ii) micro-enterprises in both start-up and development phase, especially micro-enterprises which employ persons as referred to in point (i);
- (b) build up the institutional capacity of microcredit providers;
- (c) support the development of the social investment market and facilitate access to finance for social enterprises by making equity, quasi-equity, loan instruments and grants of up to EUR 500 000 available to social enterprises with either an annual turnover not exceeding EUR 30 million, or an annual balance sheet total not exceeding EUR 30 million which are not themselves a collective investment undertaking.

In order to ensure complementarity, the Commission and the Member States shall, in their respective areas of competence, closely coordinate these actions with those undertaken in the framework of cohesion policy and national policies.

Article 27

Types of actions

Support to microfinance and social enterprises, including for institutional capacity building, in particular through the financial instruments provided for under Title VIII of Part one of the Financial Regulation, and grants may be provided under the Microfinance and Social Enterprises axis.

Article 28

Participation

1. Participation under the Microfinance and Social Entrepreneurship axis shall be open to public and private bodies established at national, regional or local level in the countries referred to in Article 18(1) and providing in those countries:

- (a) microfinance for persons and micro-enterprises; and/or
- (b) financing for social enterprises.

2. The Commission shall ensure that the axis is accessible, without discrimination, to all public and private bodies in the Member States.

3. In order to reach out to the final beneficiaries and create competitive, viable micro-enterprises, public and private bodies that carry out activities as referred to in point (a) of paragraph 1 shall cooperate closely with organisations, including civil society organisations, representing the interests of the final beneficiaries of microcredit and with organisations, in particular those supported by the ESF, and shall provide mentoring and training programmes for such final beneficiaries. In this context, a sufficient follow-up of beneficiaries shall be ensured both before and after the creation of the micro-enterprise.

4. Public and private bodies that carry out activities as referred to in point (a) of paragraph 1 shall adhere to high standards concerning governance, management and customer protection in line with the principles of the European Code of Good Conduct for Microcredit Provision and shall seek to prevent persons and undertakings from becoming over-indebted, for example, as a result of the granting of loans to them at high interest rates or on terms likely to result in their insolvency.

Article 29

Financial contribution

Except in the case of joint actions, the financial appropriations allocated to the Microfinance and Social Entrepreneurship axis shall cover the full cost of the actions implemented through financial instruments, including payment obligations towards financial intermediaries, such as losses from guarantees, management fees for the entities managing the Union's contribution and any other eligible costs.

Article 30

Management

1. In order to implement the instruments and grants referred to in Article 27, the Commission may conclude agreements with the entities listed in Article 139(4) of the Financial Regulation, and in particular with the European Investment Bank and the European Investment Fund. Such agreements shall set out detailed provisions on the implementation of the tasks entrusted to those entities, including provisions specifying the need to ensure additionality and coordination with existing Union and national financial instruments and to apportion the resources in a balanced way among the Member States and the other participating countries. Financial instruments under Title VIII of Part One of the Financial Regulation may be delivered through a dedicated investment vehicle, which may be financed by Programme funds, other investors or by both.

2. The dedicated investment vehicle referred to in paragraph 1 may provide, inter alia, loans, equity capital and risk-sharing instruments for intermediaries or direct financing for social enterprises or both. Equity capital can be provided, inter alia, in the form of open equity participations, dormant holdings, shareholder loans and combinations of different types of equity participations issued to the investors.

3. The conditions, such as interest rates, for micro-credits directly or indirectly supported in the framework of this axis shall reflect the benefit of the support and shall be justifiable with regard to underlying risks and the actual cost of funding related to a credit.

4. In accordance with Article 140(6) of the Financial Regulation, annual repayments generated by one financial instrument shall be assigned to that financial instrument until 1 January 2024, while revenues shall be entered in the general budget of the Union after deduction of management costs and fees. For financial instruments already set up in the multiannual financial framework for the period 2007-2013, annual repayments and revenues generated by operations started in the previous period shall be assigned to the financial instrument in the current period.

5. On the expiry of the agreements concluded with the entities referred to in paragraph 1 or after the termination of the investment period of the specialised investment vehicle, the balance due to the Union shall be paid into the general budget of the Union.

6. The entities referred to in paragraph 1 of this Article and, where relevant, the fund managers shall conclude written agreements with the public and private bodies referred to in Article 28. Such agreements shall lay down the obligations of the public and private providers to use the resources made available under the Microfinance and Social Entrepreneurship axis in accordance with the objectives set out in Article 26 and to provide information for drafting the annual implementation reports provided for in Article 31.

Article 31

Implementation reports

1. The entities referred to in Article 30(1), and, where relevant, the fund managers, shall send to the Commission annual implementation reports setting out the activities that have been granted support and covering their financial implementation and the allocation and accessibility of funding and investment by sector, geographical area and type of beneficiary. Those reports shall also set out the applications accepted or rejected with regard to each specific objective, the contracts concluded by the public and private bodies concerned, the actions funded and the results, including in terms of their social impact, employment creation and sustainability of the support granted. The Commission shall send those reports to the European Parliament for information purposes.

2. The information provided in those annual implementation reports shall feed into the biennial monitoring reports provided for in Article 12. Such monitoring reports shall include the

annual reports provided for in Article 8(2) of Decision No 283/2010/EU, detailed information on communication activities and information on complementarity with other Union instruments, notably the ESF.

TITLE III

WORK PROGRAMMES AND FINAL PROVISIONS

Article 32

Work Programmes

The Commission shall adopt implementing acts laying down work programmes covering the three axes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36(3).

The work programmes shall, where relevant, be for a three-year rolling period and shall contain a description of the actions to be financed, the procedures for selecting actions to be supported by the Union, the geographic coverage, the target audience and an indicative implementation time frame. The work programmes shall also include an indication of the amount allocated to each specific objective and shall reflect the re-allocation of funds in accordance with Article 33. The work programmes shall reinforce the coherence of the Programme by indicating the links between the three axes.

Article 33

Re-allocation of funds between the axes and to the individual thematic sections within the axes

The Commission shall be empowered to adopt delegated acts, in accordance with Article 34, re-allocating funds between axes and to individual thematic sections within each axis that would exceed the indicative amount set in each case by more than 5 % and up to 10 %, where developments in the socio-economic context or the findings in the mid-term evaluation referred to in Article 13(1) so require. The re-allocation of funds to thematic sections within each axis shall be reflected in the work programmes referred to in Article 32.

Article 34

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 33 shall be conferred on the Commission for a period of seven years from 1 January 2014.

3. The delegation of power referred to in Article 33 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 33 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 35

Additional implementation measures

Measures necessary for the implementation of the Programme, such as the criteria for evaluating the Programme, including those relating to cost effectiveness and the arrangements for disseminating and transferring results, shall be adopted in accordance with the advisory procedure referred to in Article 36(2).

Article 36

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 37

Transitional measures

Actions referred to in Articles 4, 5 and 6 of Decision No 1672/2006/EC, which are initiated before 1 January 2014

shall continue to be governed by that Decision. With regard to those actions, the Commission shall be assisted by the committee referred to in Article 36 of this Regulation.

Article 38

Evaluation

1. The final evaluation provided for in Article 13(4) of this Regulation shall include the final evaluation provided for in Article 9 of Decision No 283/2010/EU.
2. The Commission shall carry out a specific final evaluation of the Microfinance and Social Entrepreneurship axis no later than one year after the expiry of the agreements with the entities.

Article 39

Amendments to Decision No 283/2010/EU

Decision No 283/2010/EU is amended as follows:

- (1) In Article 5, paragraph 4 is replaced by the following:

"4. On the expiry of the Facility, the balance due to the Union shall be made available for microfinance and support for social enterprises in accordance with Regulation (EU) No 1296/2013 of the European Parliament and of the Council of 11 December 2013 on a European Union Programme for Employment and Social Innovation ("EaSI") (*).

(*) OJ L 347, 20.12.2013, p. 238";

- (2) In Article 8, paragraphs 3 and 4 are deleted.

Article 40

Entry into force

This Regulation shall enter into force on the 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 Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

**REGULATION (EU) No 1297/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013**

amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability, to the decommitment rules for certain Member States, and to the rules on payments of the final balance

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 177 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⁾,

After consulting the Committee of the Regions,

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

Whereas:

(1) The unprecedented enduring global financial crisis and economic downturn have seriously damaged economic growth and financial stability and provoked a strong deterioration in financial, economic and social conditions in the Member States. In particular, certain Member States are experiencing serious difficulties or are threatened with such difficulties, in particular with problems in their economic growth and financial stability and with a deterioration in their deficit and debt position, also as a result of the international economic and financial environment.

(2) Whilst important actions to counterbalance the negative effects of the financial crisis have already been taken, including amendments of the legislative framework, the impact of that crisis on the real economy, the labour market and citizens is being widely felt. Pressure on national financial resources is increasing and further steps should be taken urgently to alleviate that pressure through the maximal and optimal use of the funding from the Structural Funds and the Cohesion Fund ('the Funds'). In view of the persistence of the financial difficulties, it is necessary to extend the application of

the measures adopted by Regulation (EU) No 1311/2011 of the European Parliament and of the Council ⁽³⁾. Those measures were adopted pursuant to Article 122(2) and Articles 136 and 143 of the Treaty on the Functioning of the European Union.

(3) In order to facilitate the management of Union funding, to help accelerate investments in Member States and regions, and to improve the availability of funding to the economy, Council Regulation (EC) No 1083/2006 ⁽⁴⁾ was amended by Regulation (EU) No 1311/2011 of the European Parliament and of the Council to allow the increase of interim payments from the Funds by an amount corresponding to ten percentage points above the actual co-financing rate for each priority axis for Member States which are facing serious difficulties with respect to their financial stability and have requested to benefit from this measure.

(4) Article 77(6) of Regulation (EC) No 1083/2006 allows for the application of an increased co-financing rate up to 31 December 2013. However, since Member States still face serious difficulties with respect to their financial stability, the duration of the application of an increased co-financing rate should not be limited to 31 December 2013.

(5) In line with the European Council conclusions of 7-8 February 2013 and as provided for in Article 22 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽⁵⁾, the co-financing rate increased by 10 percentage points is to apply with regard to the 2014-2020 programming period until 30 June 2016, when the possibility of the increase is to be reviewed. As the 2007-2013 and 2014-2020 programming periods overlap, it is necessary to ensure

⁽³⁾ Regulation (EU) No 1311/2011 of the European Parliament and of the Council of 13 December 2011 amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 337, 20.12.2011, p. 5).

⁽⁴⁾ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

⁽⁵⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

⁽¹⁾ Opinion of 19 September 2013 (OJ C 341, 21.11.2013, p. 27).

⁽²⁾ Position of the European Parliament of 20 November 2013 (not yet published in the Official Journal) and decision of the Council of 5 December 2013.

coherent and uniform treatment of Member States receiving financial assistance during the two periods. Therefore, these Member States receiving financial assistance should also benefit from the increase of the co-financing rate until the end of the eligibility period and to claim it in their requests for final balance even if the financial assistance is not anymore provided.

- (6) Regulation (EU) No 1303/2013 aims to contribute to achieving adequate concentration of cohesion funding on the least developed regions and Member States. In order to contribute to the reduction of disparities in average per capita aid intensities, the maximum level of transfer (capping) from the Funds to each individual Member State pursuant to future Regulations is to be fixed at 2,35 % of the GDP of the Member State. The capping is to be applied on an annual basis, and, if applicable, is to proportionally reduce all transfers (except for the more developed regions and the European territorial cooperation goal) to the Member State concerned in order to obtain the maximum level of transfer. For Member States which acceded to the Union before 2013 and whose average real GDP growth in the 2008-2010 period was lower than -1 %, the maximum level of transfer is to be fixed at 2,59 % of their GDP.
- (7) Regulation (EU) No 1303/2013 caps the allocations per Member State at 110 % of their level in real terms for the 2007-2013 period. Member States affected by this capping need to be further protected from the risk of automatic decommitment of allocations in the 2007-2013 period.
- (8) In its conclusions of 8 February 2013, the European Council invited the Commission to explore practical solutions with regard to reducing the risk of automatic decommitment of the Funds from the 2007-2013 national envelope for Romania and Slovakia, including the amendment of Regulation (EC) No 1083/2006.
- (9) The European Council also highlighted the need to ensure a manageable level and profile for the payments in all headings in order to limit the outstanding budgetary commitments in particular by applying rules for automatic decommitment in all headings. Hence, provisions releasing the decommitment rules for Member States affected by the capping set out in Regulation (EU) No 1303/2013 should be balanced in view of its effects on the outstanding budgetary commitments.
- (10) The deadline for the calculation of the automatic decommitment of the annual budget commitments for years 2011 and 2012 should be extended by one year, but the 2012 budget commitment, which will still be open on 31 December 2015, is to be justified by 31 December 2015. That extension should help to improve the

absorption of funding committed for operational programmes in Member States that are affected by the capping of their future cohesion policy allocations at 110 % of their level in real terms for the 2007-2013 period. Such flexibility is necessary in order to address a slower than expected implementation of programmes affecting those Member States in particular.

- (11) Limited adjustments of the maximum amount of assistance from the Funds for each priority axis should be applied when establishing the amount of the final balance to be paid to the operational programmes in order to optimise the absorption of the Funds.
- (12) Given the unprecedented nature of the crisis, swift adoption of support measures is needed and therefore it is appropriate that this Regulation enters into force on the day of its publication in the *Official Journal of the European Union*.
- (13) Regulation (EC) No 1083/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1083/2006 is amended as follows:

- (1) Article 77 is amended as follows:
- (a) Paragraph 2 is amended as follows:

'2. By way of derogation from Article 53(2), from the second sentence of Article 53(4) and from the ceilings set out in Annex III, interim payments and payments of the final balance shall be increased by an amount corresponding to 10 percentage points above the co-financing rate applicable to each priority axis, but not exceeding 100 %, to be applied to the amount of eligible expenditure newly declared in each certified statement of expenditure submitted until the end of the programming period, where, after 21 December 2013 a Member State meets one of the following conditions:

- (a) financial assistance is made available to it in accordance with Council Regulation (EU) No 407/2010 (*) or financial assistance is made available to it by other euro area Member States before the entry into force of that Regulation;
- (b) medium-term financial assistance is made available to it in accordance with Council Regulation (EC) No 332/2002 (**);
- (c) financial assistance is made available to it in accordance with the Treaty establishing the European Stability Mechanism following its entry into force.

(*) Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

(**) Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).;

(b) Paragraph 6 is deleted;

(c) The following paragraph is added:

'12. By way of derogation from paragraph 10, the Union contribution through payments of the final balance for each priority axis shall not exceed, by more than 10 %, the maximum amount of assistance from the Funds for each priority axis as laid down in

the decision of the Commission approving the operational programme. However, the Union contribution through payments of the final balance shall not exceed the public contribution declared and the maximum amount of assistance from each Fund to each operational programme as laid down in the decision of the Commission approving the operational programme.';

(2) Article 93 is amended as follows:

(a) The following paragraph is inserted:

'2b. By way of derogation from the first subparagraph of paragraph 1 and from paragraph 2, for Member States whose cohesion policy allocations in the 2014-2020 programming period are capped at 110 % of their level in real terms for the 2007-2013 period, the deadline referred to in paragraph 1 shall be 31 December of the third year following the year of the annual budget commitment from 2007 to 2012 under their operational programmes.';

(b) In paragraph 3, the following subparagraph is added:

'The first subparagraph is without prejudice to the application of the deadline laid down in paragraph 2b to the 2012 budget commitment for the Member States referred to in that paragraph.'.

Article 2

This Regulation shall enter into force on the date 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 Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

REGULATION (EU) No 1298/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 December 2013
amending Council Regulation (EC) No 1083/2006 as regards the financial allocation for certain
Member States from the European Social Fund

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 177 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,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) In the context of the negotiations of the Multiannual Financial Framework for the years 2014-2020, certain issues stemming from the final outcome of the negotiations should be addressed.
- (2) At its meeting of 27 and 28 June 2013, the European Council considered that a budgetary solution should be found to address those issues for the Member States most affected, namely France, Italy and Spain.
- (3) Having regard to the current economic crisis, in order to strengthen the economic, social and territorial cohesion of the Union, and as a contribution to the special effort needed to address the specific problems of unemployment, in particular youth unemployment, and of poverty and social exclusion in France, Italy and Spain, the European Social Fund (ESF) allocations to those Member States for the year 2013 should be increased.
- (4) In order to establish the amounts to be allocated to the Member States concerned pursuant to Annex I to Council Regulation (EC) No 1083/2006 ⁽²⁾, the

provisions that set the overall resources of the Funds for the three objectives to which they contribute, and Annex II to that Regulation establishing the criteria and methodology that are used for the indicative annual breakdowns of commitment appropriations by Member States, should be adjusted.

- (5) To ensure the effectiveness of the increase of commitment appropriations for the year 2013 and to facilitate the implementation of operational programmes, the absorption capacity of the Member States concerned in respect of the Convergence and the Regional competitiveness and employment objectives of the Funds should be taken into account.
- (6) In order to provide for sufficient time for the operational programmes to benefit from additional ESF allocations, it is also necessary to extend the deadline for the budget commitments in respect of the operational programmes that are to benefit from the new amounts provided for in Annex II to Regulation (EC) No 1083/2006.
- (7) Given that those commitment appropriations relate to the year 2013, this Regulation should enter into force as a matter of urgency.
- (8) Regulation (EC) No 1083/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1083/2006 is amended as follows:

(1) Article 18 is amended as follows:

- (a) in paragraph 1, the first subparagraph is replaced by the following:

The resources available for commitment from the Funds for the period 2007 to 2013 shall be EUR 308 542 551 107 at 2004 prices in accordance with the annual breakdown shown in Annex I.;

⁽¹⁾ Position of the European Parliament of 20 November 2013 (not yet published in the Official Journal) and decision of the Council of 5 December 2013.

⁽²⁾ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

(b) paragraph 3 is replaced by the following:

‘3. The amounts referred to in paragraphs 12 to 30 and 32 of Annex II shall be included in the amounts referred to in Articles 19, 20 and 21 and shall be clearly identified in the programming documents.’;

(2) Articles 19 and 20 are replaced by the following:

‘Article 19

Resources for the Convergence objective

Overall resources for the Convergence objective shall amount to 81,53 % of the resources referred to in Article 18(1) (i.e. a total of EUR 251 543 760 146) and shall be distributed between the different components as follows:

- (a) 70,50 % (i.e. a total of EUR 177 338 880 991) for the financing referred to in Article 5(1), using eligible population, regional prosperity, national prosperity and unemployment rate as the criteria for calculating the indicative breakdowns by Member State;
- (b) 4,98 % (i.e. a total of EUR 12 521 289 405) for the transitional and specific support referred to in Article 8(1), using eligible population, regional prosperity, national prosperity and unemployment rate as the criteria for calculating the indicative breakdowns by Member State;
- (c) 23,23 % (i.e. a total of EUR 58 433 589 750) for the financing referred to in Article 5(2), using population, national prosperity, and surface area as the criteria for calculating the indicative breakdowns by Member State;
- (d) 1,29 % (i.e. a total of EUR 3 250 000 000) for the transitional and specific support referred to in Article 8(3).

(5) Annex I is replaced by the following:

‘ANNEX I

Annual breakdown of commitment appropriations for 2007 to 2013

(referred to in Article 18)

(EUR, 2004 prices)

2007	2008	2009	2010	2011	2012	2013
42 863 000 000	43 318 000 000	43 862 000 000	43 860 000 000	44 073 000 000	44 723 000 000	45 843 551 107’;

(6) In Annex II, the following paragraph is added:

‘32. For the year 2013, an additional envelope of EUR 125 513 290 under the ESF will be allocated as follows: EUR 83 675 527 will be allocated to France,

Article 20

Resources for the Regional competitiveness and employment objective

Overall resources for the Regional competitiveness and employment objective shall amount to 15,96 % of the resources referred to in Article 18(1) (i.e. a total of EUR 49 239 337 841) and shall be distributed between the different components as follows:

- (a) 78,91 % (i.e. a total of EUR 38 854 031 211) for the financing referred to in Article 6, using eligible population, regional prosperity, unemployment rate, employment rate and population density as the criteria for calculating the indicative breakdowns by Member State; and
 - (b) 21,09 % (i.e. a total of EUR 10 385 306 630) for the transitional and specific support referred to in Article 8(2), using eligible population, regional prosperity, national prosperity and unemployment rate as the criteria for calculating the indicative breakdowns by Member State.’;
- (3) In Article 21(1), the introductory sentence is replaced by the following:
- ‘Overall resources for the European territorial cooperation objective shall amount to 2,51 % of the resources referred to in Article 18(1) (i.e. a total of EUR 7 759 453 120) and, excluding the amount referred to in paragraph 22 of Annex II, shall be distributed between the different components as follows’;
- (4) In Article 75, the following paragraph is inserted:
- ‘1b. By way of derogation from paragraph 1, budget commitments for the amounts referred to in paragraph 32 of Annex II shall be made by 30 June 2014.’;

EUR 25 102 658 will be allocated to Italy and EUR 16 735 105 will be allocated to Spain.’.

Article 2

This Regulation shall enter into force on the 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 Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

REGULATION (EU) No 1299/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013
on specific provisions for the support from the European Regional Development Fund to the
European territorial cooperation goal

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 178 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 176 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Regional Development Fund (ERDF) is intended to help to redress the main regional imbalances in the Union. Under that Article and the second and third paragraphs of Article 174 TFEU, the ERDF is to contribute to reducing disparities between the levels of development of the various regions and to reducing the backwardness of the least favoured regions, among which particular attention is to be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.
- (2) Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽³⁾ sets out provisions common to the ERDF, the European Social Fund (ESF),

the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF). Regulation (EU) No 1301/2013 of the European Parliament and of the Council ⁽⁴⁾ sets out specific provisions concerning the type of activities which can be supported by the ERDF, and defines the goals for those activities. Those Regulations are not fully adapted to the specific needs of the European territorial cooperation goal, where at least two Member States or one Member State and a third country cooperate. It is therefore necessary to lay down provisions specific to the European territorial cooperation goal concerning scope, geographical coverage, financial resources, thematic concentration and investment priorities, programming, monitoring and evaluation, technical assistance, eligibility, management, control and designation, participation of third countries, and financial management.

- (3) In order to increase the added value of the Union's cohesion policy, specific provisions should be aimed at achieving considerable simplification for all those involved: beneficiaries, programme authorities, authorities in participating Member States, at local, regional or national level, as appropriate, and third countries, as well as the Commission.
- (4) In order to support the harmonious development of the Union's territory at different levels, the ERDF should support cross-border, transnational and interregional cooperation under the European territorial cooperation goal.
- (5) Cross-border cooperation should aim to tackle common challenges identified jointly in the border regions, such as: poor accessibility, especially in relation to information and communication technologies (ICT) connectivity and transport infrastructure, declining local industries, an inappropriate business environment, lack of networks among local and regional administrations, low levels of research and innovation and take-up of ICT, environmental pollution, risk prevention, negative attitudes towards neighbouring country citizens and aim to exploit the untapped growth potential in border areas (development of cross-border research and innovation facilities and clusters, cross-border labour market integration, cooperation among education providers, including universities or between health centres), while enhancing the cooperation process for the purpose of the overall harmonious development of the Union.

⁽¹⁾ OJ C 191, 29.6.2012, p. 49.

⁽²⁾ OJ C 277, 13.9.2012, p. 96.

⁽³⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

⁽⁴⁾ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (See page 289 of this Official Journal).

- (6) Transnational cooperation should aim to strengthen cooperation by means of actions conducive to integrated territorial development linked to the Union's cohesion policy priorities, and should also include maritime cross-border cooperation not covered by cross-border cooperation programmes.
- (7) Interregional cooperation should aim to reinforce the effectiveness of cohesion policy by encouraging exchange of experience between regions on thematic objectives and urban development, including urban-rural linkages, to improve implementation of territorial cooperation programmes and actions as well as promoting analysis of development trends in the area of territorial cohesion through studies, data collection and other measures. The exchange of experience on thematic objectives should enhance design and implementation, principally of operational programmes under the Investment for growth and jobs goal, but also, where appropriate, of programmes under the European territorial cooperation goal, including the fostering of mutually beneficial cooperation between innovative research-intensive clusters and exchanges between researchers and research institutions in both developed and less developed regions, taking into consideration the experience of 'Regions of Knowledge' and 'Research potential in Convergence and Outermost regions' under the Seventh Framework Programme for Research.
- (8) Objective criteria for designating eligible regions and areas should be fixed. To this end, the identification of eligible regions and areas at Union level should be based on the common system of classification of the regions established by Regulation (EC) No 1059/2003 of the European Parliament and of the Council⁽¹⁾.
- (9) Cross-border cooperation should support regions located on land or maritime borders. Based on experience from previous programming periods, the Commission should define the list of cross-border areas that are to receive support under cross-border cooperation programmes in a simpler way, by cooperation programme. In drawing up that list, the Commission should take into account adjustments needed to ensure coherence, in particular with regard to land and maritime borders, and continuity of programme areas established for the 2007-2013 programming period. Such adjustments could involve reducing or enlarging existing programme areas or the number of cross-border cooperation programmes, while allowing for the possibility of geographical overlap.
- (10) The Commission should define transnational cooperation areas having regard to actions needed to promote integrated territorial development. In defining those areas, the Commission should take into account the experience obtained in previous programmes and, where appropriate, macro-regional and sea-basin strategies.
- (11) To ensure that all regions in the Union can benefit from the exchange of experience and good practices, inter-regional cooperation programmes should cover the whole Union.
- (12) It is necessary to continue supporting or, as appropriate, to establish cross-border, transnational and interregional cooperation with the Union's neighbouring third countries, as such cooperation is an important regional development policy tool and should benefit the regions of the Member States which border third countries. To that effect, the ERDF should contribute to the cross-border and sea-basin programmes established under the European Neighbourhood Instrument (ENI) pursuant to a future Union legislative act concerning the European Neighbourhood Instrument for the period 2014–2020 (the 'ENI legislative act') and the Instrument for Pre-Accession Assistance (IPA II) pursuant to a future Union legislative act concerning the Pre-Accession Assistance for the period 2014-2020 (the 'IPA II legislative act').
- (13) Apart from interventions on external borders supported by external policy instruments of the Union covering border regions inside and outside the Union, it should be possible for cooperation programmes supported by the ERDF to cover regions both inside and, in certain cases, outside the Union, where the regions outside the Union are not covered by external policy instruments either because they are not defined as a beneficiary country or because such external cooperation programmes cannot be set up. It is necessary, however, to ensure that the support from the ERDF for operations implemented in the territory of third countries should serve primarily for the benefit of the regions of the Union. Within those constraints, the Commission should, when drawing up the lists of cross-border and transnational programme areas, cover regions in third countries as well.
- (14) It is necessary to set out the resources allocated to each of the different components of the European territorial cooperation goal, while maintaining a significant concentration on cross-border cooperation, including each Member State's share of the global amounts for cross-border and transnational cooperation, the potential available to Member States concerning flexibility between those components, and securing sufficient funding levels for outermost regions' cooperation.

⁽¹⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

- (15) For the benefit of the regions of the Union, a mechanism to organise support from the ERDF to external policy instruments, such as the ENI and the IPA II, should be set up, including where external cooperation programmes cannot be adopted or have to be discontinued. That mechanism should seek to achieve optimal functioning and the maximum possible coordination between those instruments.
- (16) The major part of the ERDF funding for cross-border and transnational cooperation programmes should be concentrated on a limited number of thematic objectives in order to maximise the impact of cohesion policy across the Union. However, the concentration under the interregional cooperation programme on thematic objectives should be reflected in the aim of each operation rather than in a limitation of the number of thematic objectives, in order to get the most out of interregional cooperation for the reinforcement of the effectiveness of cohesion policy principally under the Investment for growth and jobs goal and also, where appropriate, the European territorial cooperation goal. In the case of other interregional cooperation programmes, the thematic concentration should derive from their specific scope.
- (17) In order to deliver on the targets and objectives set out in the Union strategy for smart, sustainable and inclusive growth, the ERDF should contribute under the European territorial cooperation goal to the thematic objectives of developing an economy based on knowledge, research and innovation, including through the fostering of cooperation between businesses, particularly between SMEs, and through the promotion of the establishment of systems for cross-border information exchange in the area of ICT; promoting a greener, more resource-efficient and competitive economy, including through the promotion of sustainable cross-border mobility; fostering high employment that results in social and territorial cohesion, including through activities supporting sustainable tourism, culture and natural heritage as part of a territorial strategy aimed at achieving employment-friendly growth; and developing administrative capacity. However, the list of the investment priorities under the different thematic objectives should be adapted to the specific needs of the European territorial cooperation goal, by providing for additional investment priorities allowing in particular for the continuation under cross-border cooperation of legal and administrative cooperation, cooperation between citizens and institutions, and of cooperation in the fields of employment, training, integration of communities and social inclusion in a cross-border perspective, and by the development and coordination of macro-regional and sea-basin strategies under transnational cooperation. In addition, specific or additional investment priorities should be set out for certain interregional cooperation programmes to reflect their specific activities.
- (18) Within the thematic objective of promoting social inclusion and combating poverty and taking into account its practical importance, it is necessary to ensure that, in the case of the PEACE cross-border programme between Northern Ireland and the border counties of Ireland in support of peace and reconciliation, the ERDF should also contribute to promoting social and economic stability in the regions concerned, in particular through actions to promote cohesion between communities. Given the specificities of that cross-border programme, certain rules on selection of operations in this Regulation should not apply to that cross-border programme.
- (19) It is necessary to adapt the content requirements of cooperation programmes under the European territorial cooperation goal to their specific needs. Those requirements should therefore also cover aspects necessary for effective implementation on the territory of participating Member States, such as those concerning the bodies responsible for audit and control, the procedure for setting up a joint secretariat, and the allocation of liabilities in the case of financial corrections. Where Member States and regions participate in macro-regional and sea-basin strategies, the cooperation programmes concerned should set out how interventions could contribute to such strategies. In addition, due to the horizontal character of interregional cooperation programmes, the content of such cooperation programmes should be adapted, especially as regards the definition of the beneficiary or beneficiaries under the current INTERACT and ESPON programmes.
- (20) In order to strengthen the co-ordination of ERDF support for cooperation programmes, adopted under this Regulation, involving the outermost regions with possible complementary financing from the European Development Fund (EDF), the ENI, the IPA II, and the European Investment Bank (EIB), Member States and third countries or overseas countries or territories (the latter hereinafter referred to as 'territories') participating in such cooperation programmes should set out rules for coordination mechanisms in those programmes.
- (21) It is appropriate to involve third countries or territories in the preparatory process of cooperation programmes, where they have accepted the invitation to participate in such programmes. Special procedures should be established in this Regulation for such involvement. By way of derogation from the standard procedure, where cooperation programmes involve outermost regions and third countries or territories, the participating Member States should consult the respective third countries or territories before submitting the programmes to the Commission. In order to make the involvement of third countries or territories in cooperation programmes more effective and pragmatic, it should also be possible to have the agreements to the contents of the cooperation programmes and the possible contribution of the third countries or territories, expressed in the formally approved minutes of the consultation meetings with such third countries or territories, or of the deliberations of the regional cooperation organisations. Taking into account the principles of shared management and of simplification, the approval procedure for cooperation programmes should be such that the Commission approves only the core elements of the cooperation programmes, while the other elements should be approved by the participating Member State

or Member States. For the sake of legal certainty and transparency, it is necessary to ensure that, in cases where the participating Member State or Member States amend an element of a cooperation programme which is not subject to approval by the Commission, the managing authority for that programme notifies such an amending decision to the Commission within one month of the date of that amending decision.

- (22) In line with the Union strategy for smart, sustainable and inclusive growth, the European Structural and Investment Funds should provide a more integrated and inclusive approach to tackling local problems. In order to strengthen such an approach, support from the ERDF in border regions should be coordinated with support from the EAFRD and the EMFF and should, where appropriate, involve European groupings of territorial cooperation (EGTCs) set up under Regulation (EU) No 1302/2013 of the European Parliament and of the Council⁽¹⁾ where local development is one of their objectives.
- (23) Based on the experience from the 2007-2013 programming period, the conditions for selection of operations should be clarified and strengthened in order to ensure selection of only genuinely joint operations. Due to the particular context and specificities of cooperation programmes between outermost regions and third countries or territories, lightened cooperation conditions in terms of processing operations under those programmes should be established and adapted. The notion of sole beneficiaries should be defined and such beneficiaries should be permitted to carry out cooperation operations by themselves.
- (24) The responsibilities of lead beneficiaries, retaining overall responsibility for the implementation of an operation, should be specified.
- (25) The requirements for implementation reports should be adapted to the cooperation context and reflect the programme implementation cycle. In the interests of

sound management, it should be possible for the annual review to be carried out in writing.

- (26) In accordance with Regulation (EU) No 1303/2013 the managing authority should ensure that evaluations of cooperation programmes are carried out on the basis of the evaluation plan and include evaluations to assess the effectiveness, efficiency and impact of those programmes. At least once during the programming period, an evaluation should assess how the support provided has contributed to the achievement of objectives of the programme. Such evaluations should include information about any proposed adjustments during the programming period.
- (27) A common set of output indicators to facilitate the assessment of the progress of programme implementation, adapted to the specific character of cooperation programmes, should be set out in an Annex to this Regulation. Those indicators should be complemented by programme-specific result indicators and, where relevant, by programme specific output indicators.
- (28) Due to the involvement of more than one Member State, and the resulting higher administrative costs, in particular, in respect of controls and translation, the ceiling for technical assistance expenditure should be higher than that under the Investment for growth and jobs goal. In order to offset the higher administrative costs, Member States should be encouraged wherever possible to reduce the administrative burden with regard to the implementation of joint projects. In addition, cooperation programmes with limited ERDF support should receive a certain minimum amount for technical assistance which could be greater than 6 %, to ensure sufficient funding for effective technical assistance activities.
- (29) Due to the involvement of more than one Member State, the general rule laid down in Regulation (EU) No 1303/2013, whereby each Member State is to adopt national rules on eligibility of expenditure, is not appropriate for the European territorial cooperation goal. Based on experience from the 2007-2013 programming period, a clear hierarchy of rules on eligibility of expenditure should be established with a strong move towards rules on eligibility of expenditure established at Union level or for a cooperation programme as a whole to avoid any possible contradictions or inconsistencies between different Regulations and between Regulations and national rules. In particular, the Commission should, based on experience from the 2007-2013 programming period, adopt rules on eligibility of expenditure for cost categories laid down in this Regulation.

⁽¹⁾ Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings (See page 303 of this Official Journal).

- (30) Due to the frequent involvement of staff from more than one Member State in the implementation of operations, and given the number of operations for which staff costs is a significant element, a flat-rate for staff costs should be applied based on the other direct costs of cooperation operations, thus avoiding individual accounting for the management of such operations.
- (31) The rules on flexibility concerning the location of operations outside the programme area should be simplified. In addition, it is necessary to support and facilitate, through specific arrangements, effective cross-border, transnational and interregional cooperation with the Union's neighbouring third countries or territories where this is necessary to ensure that regions of the Member States are effectively assisted in their development. Accordingly, it is appropriate to authorise on an exceptional basis and under certain conditions support from the ERDF for operations located outside the Union part of the programme area and on the territory of neighbouring third countries where those operations are for the benefit of the regions of the Union.
- (32) Member States should be encouraged to assign the functions of the managing authority to an EGTC or to make such a grouping responsible for managing the part of a cooperation programme that relates to the territory covered by that EGTC.
- (33) The managing authority should set up a joint secretariat which should, inter alia, provide information to applicants for support, deal with project applications and assist beneficiaries in implementing their operations.
- (34) Managing authorities should be responsible for the functions laid down in Regulation (EU) No 1303/2013, including for management verifications, in order to ensure uniform standards across the whole programme area. However, where an EGTC is designated as managing authority, such verifications should be carried out by or under the responsibility of the managing authority at least for those Member States and third countries or territories from which there are members participating in the EGTC, while controllers should only be used in the remaining Member States and third countries or territories. Even if no EGTC is designated, the managing authority should be authorised by the participating Member States to carry out verifications on the whole programme area.
- (35) Certifying authorities should be responsible for the certifying authority functions laid down in Regulation (EU) No 1303/2013. The Member States should be able to designate the managing authority to also carry out the functions of the certifying authority.
- (36) A single audit authority should be responsible for carrying out the audit authority functions laid down in Regulation (EU) No 1303/2013 in order to ensure uniform standards across the whole programme area. Where that is not possible, a group of auditors should be able to assist the programme audit authority.
- (37) In order to strengthen the Union's economic, social and territorial cohesion and to reinforce the effectiveness of its cohesion policy, third countries should be allowed to participate, through a contribution of IPA II and ENI resources, in transnational and interregional cooperation programmes. Operations co-financed under such programmes should, however, continue to pursue cohesion policy objectives, even if they are implemented, partly or in their entirety, outside the territory of the Union. In this context, the contribution to the objectives of the Union's external action remains merely incidental, as the centre of gravity of cooperation programmes should be determined by the thematic objectives and investment priorities of cohesion policy. In order to ensure effective participation by third countries in cooperation programmes that are managed in accordance with the shared management principle, programme implementation conditions should be set out in the cooperation programmes themselves and also, where necessary, in financing agreements, concluded between the Commission, the governments of each of the third countries and the Member State hosting the managing authority of the relevant cooperation programme. The programme implementation conditions should be consistent with applicable Union law and, where appropriate, with the provisions of national law of participating Member States relating to its application.
- (38) A clear chain of financial liability in respect of recovery for irregularities should be established from beneficiaries to lead beneficiary to the managing authority to the Commission. Provision should be made for liability of Member States where obtaining recovery is not possible.
- (39) Based on the experience from the 2007-2013 programming period, an explicit derogation should be established for the conversion of expenditure incurred in a currency other than the euro, by applying the monthly conversion rate at a date as close to the point in time of the expenditure as possible or in the month in which the expenditure was submitted for verification or in the month during which expenditure was reported to the lead beneficiary. Financing plans, reports and accounts concerning joint cooperation operations should only be submitted in euro to the joint secretariat, the programme authorities and the monitoring committee. The correctness of conversion should be verified.

- (40) In order to set out specific rules on amending common output indicators and on eligibility of expenditure, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the list of common output indicators set out in the Annex to this Regulation and in respect of specific rules on eligibility of expenditure for cooperation programmes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (41) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the lists of cross-border areas, and of transnational areas, of a list of all cooperation programmes and of the global amount from the ERDF support for each cooperation programme, of the nomenclature concerning categories of intervention and of the models for cooperation programmes and implementation reports. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (42) Implementing powers should be conferred on the Commission to adopt decisions approving certain elements of the cooperation programmes and any subsequent amendments to those elements.
- (43) This Regulation should not affect either the continuation or modification of assistance approved by the Commission on the basis of Regulation (EC) No 1080/2006 of the European Parliament and of the Council ⁽²⁾ or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation should consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. Applications to receive assistance made or approved under Regulation (EC) No 1080/2006 should remain valid.
- (44) Since the objective of this Regulation, namely to reinforce economic, social and territorial cohesion by redressing the main regional imbalances in the Union,

cannot be sufficiently achieved by the Member States but can rather, by reason of the extent of the disparities between the levels of development of the various regions and the backwardness of the least favoured regions and the limit on the financial resources of the Member States and regions, 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.

- (45) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Subject matter and scope

1. This Regulation establishes the scope of the ERDF with regard to the European territorial cooperation goal and lays down specific provisions concerning that goal.

2. This Regulation defines, for the European territorial cooperation goal, the priority objectives and organisation of the ERDF, the criteria for Member States and regions to be eligible for support from the ERDF, the financial resources available for support from the ERDF, and the criteria for their allocation.

It also lays down the provisions necessary to ensure effective implementation, monitoring, financial management and control of operational programmes under the European territorial cooperation goal ("cooperation programmes"), including when third countries participate in such cooperation programmes.

3. Regulation (EU) No 1303/2013 and Chapter I of Regulation (EU) No 1301/2013 shall apply to the European territorial cooperation goal and to cooperation programmes thereunder, except where specifically provided for under this Regulation or where those provisions can only apply to the Investment for growth and jobs goal.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control, by Member States, of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²⁾ Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 (OJ L 210, 31.7.2006, p. 1).

*Article 2***Components of the European territorial cooperation goal**

Under the European territorial cooperation goal, the ERDF shall support the following components:

- (1) cross-border cooperation between adjacent regions to promote integrated regional development between neighbouring land and maritime border regions in two or more Member States or between neighbouring border regions in at least one Member State and one third country on external borders of the Union other than those covered by programmes under the external financial instruments of the Union;
- (2) transnational cooperation over larger transnational territories, involving national, regional and local partners and also covering maritime cross-border cooperation in cases not covered by cross-border cooperation, with a view to achieving a higher degree of territorial integration of those territories;
- (3) interregional cooperation to reinforce the effectiveness of cohesion policy by promoting:
 - (a) exchange of experience focusing on thematic objectives among partners throughout the Union, including in relation to the development of regions referred to in Article 174 TFEU on the identification and dissemination of good practices with a view to their transfer principally to operational programmes under the Investment for growth and jobs goal but also, where relevant, to cooperation programmes;
 - (b) exchange of experience concerning the identification, transfer and dissemination of good practices in relation to sustainable urban development, including urban-rural linkages;
 - (c) exchange of experience concerning the identification, transfer and dissemination of good practices and innovative approaches in relation to the implementation of cooperation programmes and actions as well as to the use of EGTCs;
 - (d) analysis of development trends in relation to the aims of territorial cohesion, including territorial aspects of economic and social cohesion, and harmonious development of Union territory through studies, data collection and other measures.

*Article 3***Geographical coverage**

1. For cross-border cooperation, the regions to be supported shall be the NUTS level 3 regions of the Union along all

internal and external land borders other than those covered by programmes under the external financial instruments of the Union, and all NUTS level 3 regions of the Union along maritime borders separated by a maximum of 150 km, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation programme areas established for the 2007-2013 programming period.

The Commission shall adopt a decision, by means of implementing acts, setting out the list of cross-border areas to receive support, broken down by cooperation programme. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2) of Regulation (EU) No 1303/2013.

That list shall also specify those NUTS level 3 regions of the Union taken into account for the ERDF allocation for cross-border cooperation at all internal borders, and those external borders covered by the external financial instruments of the Union, such as the ENI pursuant to the ENI legislative act and the IPA II pursuant to the IPA II legislative act.

When submitting draft cross-border cooperation programmes, Member States, in duly justified cases, and, in order to ensure the coherence of cross-border areas, may request that NUTS level 3 regions other than those listed in the decision referred to in the second subparagraph, are added to a given cross-border cooperation area.

At the request of the Member State or Member States concerned, in order to facilitate cross border cooperation on maritime borders for outermost regions, and without prejudice to the provisions of the first subparagraph, the Commission may include, in the decision referred to in the second subparagraph, NUTS level 3 regions in outermost regions along maritime borders separated by more than 150 km as cross-border areas which may receive support from the corresponding allocation of those Member States.

2. Without prejudice to Article 20(2) and (3), cross-border cooperation programmes may cover regions in Norway and Switzerland and also cover Liechtenstein, Andorra, Monaco and San Marino and third countries or territories neighbouring outermost regions, all of which shall be equivalent to NUTS level 3 regions.

3. For transnational cooperation, the Commission shall adopt a decision, by means of implementing acts, setting out the list of transnational areas to receive support, broken down by cooperation programme and covering NUTS level 2 regions, while ensuring the continuity of such cooperation in larger coherent areas based on previous programmes, taking account, where appropriate, of macro-regional and sea-basin strategies. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2) of Regulation (EU) No 1303/2013.

When submitting draft transnational cooperation programmes, Member States may request that additional NUTS level 2 regions located adjacent to the regions listed in the decision referred to in the first subparagraph are added to a given transnational cooperation area. Member States shall give reasons for such a request.

4. Without prejudice to Article 20(2) and (3), transnational cooperation programmes may cover regions in both of the following third countries or territories:

- (a) the third countries or territories listed or referred to in paragraph 2 of this Article;
- (b) the Faroe Islands and Greenland.

Without prejudice to Article 20(2) and (3), transnational cooperation programmes may also cover regions in third countries covered by the external financial instruments of the Union, such as the ENI pursuant to the ENI legislative act, including the relevant regions of the Russian Federation, and the IPA II pursuant to the IPA II legislative act. Annual appropriations corresponding to the support of the ENI and IPA II to those programmes shall be made available, provided that the programmes adequately address the relevant external cooperation objectives.

Such regions shall be equivalent to NUTS level 2 regions.

5. For interregional cooperation, support from the ERDF shall cover the entire territory of the Union.

Without prejudice to Article 20(2) and (3), interregional cooperation programmes may cover the whole or part of the third countries or territories referred to in points (a) and (b) of the first subparagraph of paragraph 4 of this Article.

6. For information purposes, regions of third countries or territories referred to in paragraphs 2 and 4 shall be mentioned in the lists referred to in paragraphs 1 and 3.

7. In duly justified cases, in order to increase the efficiency of programme implementation, the outermost regions may, in a single programme for territorial cooperation, combine the amounts of the ERDF allocated for cross-border and transnational cooperation, including the additional allocation provided for under Article 4(2), while complying with the applicable rules for each of those allocations.

Article 4

Resources for European territorial cooperation goal

1. Resources for the European territorial cooperation goal shall amount to 2,75 % of the global resources available for budgetary commitment from the ERDF, ESF and the Cohesion Fund for the 2014-2020 programming period and set out in Article 91(1) of Regulation (EU) No 1303/2013 (i.e., a total of EUR 8 948 259 330) and shall be allocated as follows:

- (a) 74,05 % (i.e., a total of EUR 6 626 631 760) for cross-border cooperation;
- (b) 20,36 % (i.e., a total of EUR 1 821 627 570) for transnational cooperation;
- (c) 5,59 % (i.e., a total of EUR 500 000 000) for interregional cooperation.

2. For programmes under the European territorial cooperation goal, the outermost regions shall be allocated not less than 150 % of the ERDF support they received in the 2007-2013 programming period for cooperation programmes. In addition, an amount of EUR 50 000 000 from the allocation for interregional cooperation shall be set aside for outermost regions' cooperation. Concerning thematic concentration, Article 6(1) shall apply to that additional allocation.

3. The Commission shall communicate to each Member State its share of the global amounts for cross-border and transnational cooperation as referred to in points (a) and (b) of paragraph 1, broken down by year. Population size in the areas referred to in the second subparagraph of Article 3(1) and the first subparagraph of Article 3(3) shall be used as the criterion for the breakdown by Member State.

Based on the amounts communicated pursuant to the first subparagraph, each Member State shall inform the Commission whether, and how, it has used the transfer option provided for in Article 5 and the resulting distribution of funds among the cross-border and transnational programmes in which the Member State participates. The Commission shall, on the basis of the information provided by Member States, adopt a decision, by means of implementing acts, setting out a list of all cooperation programmes and indicating the global amount of the total ERDF support for each programme. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2) of Regulation (EU) No 1303/2013

4. The contribution from the ERDF to cross-border and sea-basin programmes under the ENI and to the cross-border programmes under the IPA II shall be established by the Commission and the Member States concerned. The ERDF contribution established for each Member State shall not subsequently be reallocated between the Member States concerned.

5. Support from the ERDF to individual cross-border and sea-basin programmes under the ENI and to the cross-border programmes under the IPA II shall be granted provided that at least equivalent amounts are provided by the ENI and the IPA II. That equivalence shall be subject to a maximum amount set out in the ENI legislative act or the IPA II legislative act.

6. The annual appropriations corresponding to the support from the ERDF to cross-border and sea-basin programmes under the ENI and to the cross-border programmes under the IPA II shall be entered in the relevant budget lines of those instruments for the 2014 budgetary exercise.

7. In 2015 and 2016, the annual contribution from the ERDF to the programmes under the ENI and the IPA II, for which no programme has been submitted to the Commission by 30 June under the cross-border and sea-basin programmes under the ENI, and under the cross-border programmes under the IPA II, and which has not been re-allocated to another programme submitted under the same category of external cooperation programmes, shall be allocated to the internal cross-border cooperation programmes under point (a) of paragraph 1 in which the Member State or Member States concerned participates or participate.

If by 30 June 2017, there are still cross-border and sea-basin programmes under the ENI and cross-border programmes under the IPA II which have not been submitted to the Commission, the entire contribution from the ERDF referred to in paragraph 4 to those programmes for the remaining years up to 2020, which has not been re-allocated to another adopted programme under the same category of external cooperation programmes, shall be allocated to the internal cross-border cooperation programmes under point (a) of paragraph 1 in which the Member State or Member States concerned participates or participate.

8. Any cross-border and sea basin programmes, referred to in paragraph 4, adopted by the Commission shall be discontinued, or the allocation to the programmes shall be reduced, in accordance with the applicable rules and procedures, in particular if:

- (a) none of the partner countries covered by the programme have signed the relevant financing agreement by the deadline set out in accordance with the ENI legislative act or the IPA II legislative act; or
- (b) the programme cannot be implemented as planned due to problems in relations between the participating countries.

In such cases, the contribution from the ERDF referred to in paragraph 4 corresponding to annual instalments not yet committed, or annual instalments committed and de-committed totally or partially during the same budgetary year, which have not been re-allocated to another programme of the same category of external cooperation programmes, shall be allocated to the internal cross-border cooperation programmes under point (a) of paragraph 1 in which the Member State or Member States concerned participates or participate, at its or their request.

9. The Commission shall provide an annual summary of the financial implementation of cross-border and sea-basin programmes under the ENI, and of cross-border programmes under the IPA II, to which the ERDF contributes in accordance

with this Article, to the Committee established under Article 150(1) of Regulation (EU) No 1303/2013.

Article 5

Transfer option

Each Member State may transfer up to 15 % of its financial allocation for each of the components referred to in points (a) and (b) of Article 4(1) from one of those components to the other.

CHAPTER II

Thematic concentration and investment priorities

Article 6

Thematic concentration

1. At least 80 % of the ERDF allocation to each cross-border cooperation and transnational programme shall be concentrated on a maximum of four of the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013.

2. All of the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303 /2013 may be selected for interregional cooperation referred to in point (3)(a) of Article 2 of this Regulation.

Article 7

Investment priorities

1. The ERDF shall, within its scope as set out in Article 3 of Regulation (EU) No 1301 /2013, contribute to the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303 /2013 through joint action under cross-border, transnational and interregional cooperation programmes. In addition to the investment priorities set out in Article 5 of Regulation (EU) No 1301 /2013, the ERDF may also support the following investment priorities within the thematic objectives indicated for each European territorial cooperation component:

- (a) under cross-border cooperation:
 - (i) promoting sustainable and quality employment and supporting labour mobility by integrating cross-border labour markets, including cross-border mobility, joint local employment initiatives, information and advisory services and joint training;
 - (ii) promoting social inclusion, combating poverty and any discrimination by promoting gender equality, equal opportunities, and the integration of communities across borders;
 - (iii) investing in education, training and vocational training for skills and lifelong learning by developing and implementing joint education, vocational training and training schemes;

- (iv) enhancing institutional capacity of public authorities and stakeholders and efficient public administration by promoting legal and administrative cooperation and cooperation between citizens and institutions;
- (b) under transnational cooperation: enhancing institutional capacity of public authorities and stakeholders and efficient public administration by developing and coordinating macro-regional and sea-basin strategies;
- (c) under interregional cooperation: enhancing institutional capacity of public authorities and stakeholders and efficient public administration by:
- (i) disseminating good practices and expertise and capitalising on the results of the exchange of experience in relation to sustainable urban development, including urban-rural linkages pursuant to point (3)(b) of Article 2.
 - (ii) promoting the exchange of experience in order to reinforce the effectiveness of territorial cooperation programmes and actions as well as the use of EGTCs pursuant to point (3)(c) of Article 2;
 - (iii) strengthening the evidence base in order to reinforce the effectiveness of cohesion policy and the achievement of the thematic objectives through the analysis of development trends pursuant to point (3)(d) of Article 2;
2. In the case of the PEACE cross-border programme and within the thematic objective of promoting social inclusion, combating poverty and any discrimination, the ERDF shall also contribute to promoting social and economic stability in the regions concerned, in particular through actions to promote cohesion between communities.
- CHAPTER III*
- Programming**
- Article 8*
- Content, adoption and amendment of cooperation programmes**
1. A cooperation programme shall consist of priority axes. Without prejudice to Article 59 of Regulation (EU) No 1303/2013, a priority axis shall correspond to a thematic objective and comprise one or more of the investment priorities of that thematic objective in line with Articles 6 and 7 of this Regulation. Where appropriate, and in order to increase its impact and effectiveness through a thematically coherent integrated approach to pursuing the objectives of the Union strategy for smart, sustainable and inclusive growth, a priority axis may, in duly justified cases, combine one or more complementary investment priorities from different thematic objectives in order to achieve the maximum contribution to that priority axis.
2. A cooperation programme shall contribute to the Union strategy for smart, sustainable and inclusive growth and to the achievement of economic, social and territorial cohesion, and shall set out:
- (a) a justification for the choice of thematic objectives, corresponding investment priorities and financial allocations, having regard to the Common Strategic Framework set out in Annex I to Regulation (EU) No 1303/2013, based on an analysis of the needs within the programme area as a whole and the strategy chosen in response to such needs, addressing where appropriate missing links in cross-border infrastructure, taking into account the results of the ex-ante evaluation carried out in accordance with Article 55 of Regulation (EU) No 1303/2013;
 - (b) for each priority axis other than technical assistance:
 - (i) the investment priorities and corresponding specific objectives;
 - (ii) in order to strengthen the result-orientation of the programming, the expected results for the specific objectives, and the corresponding result indicators, with a baseline value and a target value, where appropriate quantified, in accordance with Article 16;
 - (iii) a description of the type and examples of actions to be supported under each investment priority and their expected contribution to the specific objectives referred to in point (i) including the guiding principles for the selection of operations and where appropriate, the identification of the main target groups, specific territories targeted, types of beneficiaries, the planned use of financial instruments, and major projects;
 - (iv) the common and specific output indicators, including the quantified target value, which are expected to contribute to the results, in accordance with Article 16, for each investment priority;
 - (v) identification of implementation steps and financial and output indicators, and where appropriate, result indicators, to be used as milestones and targets for the performance framework in accordance with Article 21(1) of Regulation (EU) No 1303/2013 and Annex II to that Regulation;
 - (vi) where appropriate, a summary of the planned use of technical assistance including, where necessary, actions to reinforce the administrative capacity of authorities involved in the management and control of the programmes and beneficiaries and, where necessary, actions to enhance the administrative capacity of relevant partners to participate in the implementation of the programmes;

- (vii) the corresponding categories of intervention based on a nomenclature adopted by the Commission and an indicative breakdown of the programmed resources;
- (c) for each priority axis concerning technical assistance:
- (i) specific objectives;
- (ii) the expected results for each specific objective, and, where objectively justified given the content of the actions, the corresponding result indicators, with a baseline value and a target value, in accordance with Article 16;
- (iii) a description of actions to be supported and their expected contribution to the specific objectives referred to in point (i);
- (iv) the output indicators which are expected to contribute to the results;
- (v) the corresponding categories of intervention based on a nomenclature adopted by the Commission and an indicative breakdown of the programmed resources.
- Point (ii) shall not apply where the Union contribution to the priority axis or axes concerning technical assistance in a cooperation programme does not exceed EUR 15 000 000;
- (d) a financing plan containing the following tables (without any division per participating Member State):
- (i) a table specifying for each year, in accordance with the rules on co-financing rates laid down in Articles 60, 120 and 121 of Regulation (EU) No 1303/2013, the amount of the total financial appropriation envisaged for the support from the ERDF;
- (ii) a table specifying, for the whole programming period, for the cooperation programme and for each priority axis, the amount of the total financial appropriation of the support from the ERDF and the national co-financing. For priority axes, which combine investment priorities from different thematic objectives, the table shall specify the amount of total financial appropriation and the national co-financing for each of the corresponding thematic objectives. Where the national co-financing is made up of public and private co-financing, the table shall give the indicative breakdown between the public and the private components. It shall show, for information purposes, any contribution from third countries participating in the programme and the envisaged participation from the EIB;
- (e) a list of major projects for which the implementation is planned during the programming period.

The Commission shall adopt implementing acts concerning the nomenclature referred to in points (b)(vii) and (c)(v) of the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3) of Regulation (EU) No 1303/2000.

3. Taking into account its content and objectives, a cooperation programme shall describe the integrated approach to territorial development, including in relation to regions and areas referred to in Article 174(3) TFEU, having regard to the Partnership Agreements of the participating Member States, and showing how that cooperation programme contributes to the accomplishment of its objectives and expected results, specifying, where appropriate, the following:

- (a) the approach to the use of community-led local development instruments and the principles for identifying the areas where it will be implemented;
- (b) the principles for identifying the urban areas where integrated actions for sustainable urban development are to be implemented and the indicative allocation of the ERDF support for such actions;
- (c) the approach to the use of the integrated territorial investment instrument referred to in Article 11, other than in cases covered by point (b), and their indicative financial allocation from each priority axis;
- (d) where Member States and regions participate in macro-regional strategies and sea basin strategies, the contribution of the planned interventions under the cooperation programme to those strategies, subject to the needs of the programme area as identified by the relevant Member States and taking into account, where applicable, the strategically important projects identified in those strategies.

4. The cooperation programme shall also identify:

- (a) the implementing provisions which:
- (i) identify the managing authority, the certifying authority, where appropriate, and the audit authority;
- (ii) identify the body or bodies designated to carry out control tasks;
- (iii) identify the body or bodies designated to be responsible for carrying out audit tasks;
- (iv) lay down the procedure for setting up the joint secretariat;
- (v) set out a summary description of the management and control arrangements;

- (vi) set out the apportionment of liabilities among the participating Member States in the event of financial corrections imposed by the managing authority or the Commission.
- (b) the body to which payments are to be made by the Commission;
- (c) the actions taken to involve the partners referred to in Article 5 of Regulation (EU) No 1303/2013 in the preparation of the cooperation programme, and the role of those partners in the preparation and implementation of the cooperation programme, including their involvement in the monitoring committee.
5. The cooperation programme shall also set out the following, having regard to the content of the Partnership Agreements and taking into account the institutional and legal framework of the Member States:
- (a) mechanisms to ensure effective coordination between the ERDF, the ESF, the Cohesion Fund, the EAFRD, the EMFF and other Union and national funding instruments, including the coordination and possible combination with the Connecting Europe Facility pursuant to Regulation (EU) No 1316/2013 of the European Parliament and of the Council⁽¹⁾, the ENI, the EDF, and the IPA II, as well as with the EIB, taking into account the provisions set out in Annex I to Regulation (EU) No 1303/2013 where Member States and third countries or territories participate in cooperation programmes that include the use of ERDF appropriations for outermost regions and resources from the EDF, coordination mechanisms at the appropriate level to facilitate effective coordination in the use of those appropriations and resources;
- (b) a summary of the assessment of the administrative burden on beneficiaries and, where necessary, the actions planned, accompanied by an indicative timeframe, to reduce the administrative burden.
6. Information required under point (a) of the first subparagraph of paragraph 2, point (b)(i) to (vii) of the first subparagraph of paragraph 2, paragraph 3 and point (a) of paragraph 5 shall be adapted to the specific character of cooperation programmes under point (3)(b), (c) and (d) of Article 2. Information required under point (e) of the first subparagraph of paragraph 2 and point (b) of paragraph 5 shall not be included in cooperation programmes under point (3)(c) and (d) of Article 2.
7. Each cooperation programme shall, where appropriate and subject to the relevant Member States' duly justified assessment of their relevance to the content and objectives of the programme, include a description of:
- (a) the specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and risk management, in the selection of operations;
- (b) the specific actions to promote equal opportunities and prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, design and implementation of the cooperation programme and in particular in relation to access to funding, taking account of the needs of the various target groups at risk of such discrimination and in particular the requirements to ensure accessibility for persons with disabilities;
- (c) the contribution of the cooperation programme to the promotion of equality between men and women and, where appropriate, the arrangements to ensure the integration of gender perspective at programme and operation level.
- Points (a) and (b) of the first subparagraph shall not apply to cooperation programmes under point (3)(b), (c) and (d) of Article 2.
8. Cooperation programmes under point (3)(c) and (d) of Article 2 shall define the beneficiary or beneficiaries and may specify the granting procedure.
9. The participating Member States and, where they have accepted the invitation to participate in the cooperation programme, third countries or territories, where applicable, shall confirm, in writing, their agreement to the contents of a cooperation programme prior to its submission to the Commission. This agreement shall also include a commitment of all participating Member States and, where applicable, third countries or territories, to provide the co-financing necessary to implement the cooperation programme and, where applicable, the commitment for the financial contribution of the third countries or territories.
- By way of derogation from the first subparagraph, in the case of cooperation programmes involving outermost regions and third countries or territories, the Member States concerned shall consult the respective third countries or territories before submitting the cooperation programmes to the Commission. In that case, the agreements to the contents of the cooperation programmes and the possible contribution of the third countries or territories may instead be expressed in the formally approved minutes of the consultation meetings with the third countries or territories or of the deliberations of the regional cooperation organisations.

⁽¹⁾ Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

10. The participating Member States and, where they have accepted the invitation to participate in the cooperation programme, third countries or territories shall draft the cooperation programmes in accordance with the model adopted by the Commission.

11. The Commission shall adopt the model referred to in paragraph 10 by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2) of Regulation (EU) No 1303/2013.

12. The Commission shall adopt a decision, by means of implementing acts, approving all elements, including future amendments, falling under this Article except those falling under point (b)(vii) of paragraph 2, point (c)(v) of paragraph 2, point (e) of paragraph 2, points (a)(i) and (c) of paragraph 4, and paragraphs 5 and 7 of this Article, which remain under the responsibility of the participating Member States.

13. The managing authority shall notify the Commission of any decision amending the elements of the cooperation programme not covered by the Commission decision referred to in paragraph 12, within one month of the date of that amending decision. The amending decision shall specify the date of its entry into force, which shall not be earlier than the date of its adoption.

Article 9

Joint Action Plan

Where a joint action plan referred to in Article 104(1) of Regulation (EU) No 1303/2013 is carried out under the responsibility of an EGTC as beneficiary, staff of the joint secretariat of the cooperation programme and members of the assembly of the EGTC may become members of the steering committee referred to in Article 108(1) of Regulation (EU) No 1303/2013. The members of the assembly of the EGTC shall not form the majority within that steering committee.

Article 10

Community-led local development

Community-led local development under Article 32 of Regulation (EU) No 1303/2013 may be implemented in cross-border cooperation programmes, provided that the local development group is composed of representatives of at least two countries, of which one is a Member State.

Article 11

Integrated territorial investment

For cooperation programmes, the intermediate body for carrying out the management and implementation of an integrated territorial investment as referred to in Article 36(3) of Regulation (EU) No 1303/2013 shall be either a legal body established under the laws of one of the participating countries provided that it is set up by public authorities or bodies from at least two participating countries, or an EGTC.

Article 12

Selection of operations

1. Operations under cooperation programmes shall be selected by a monitoring committee as referred to in Article 47 of Regulation (EU) No 1303/2013. That monitoring committee may set up a steering committee that acts under its responsibility for the selection of operations.

2. Operations selected under cross-border and transnational cooperation shall involve beneficiaries from at least two participating countries, at least one of which shall be from a Member State. An operation may be implemented in a single country, provided that cross-border or transnational impacts and benefits are identified.

Operations under interregional cooperation referred to in point (3)(a) and (b) of Article 2 shall involve beneficiaries from at least three countries, at least two of which shall be Member States.

The conditions set out in the first subparagraph shall not apply to operations under the PEACE cross-border programme, between Northern Ireland and the border counties of Ireland, in support of peace and reconciliation as referred to in Article 7(2).

3. Notwithstanding paragraph 2, an EGTC or other legal body established under the laws of one of the participating countries may be the sole beneficiary of an operation provided that it is set up by public authorities or bodies from at least two participating countries, in the case of cross-border and transnational cooperation, and from at least three participating countries, in the case of interregional cooperation.

A legal body that implements a financial instrument or a fund of funds, as applicable, may be the sole beneficiary of an operation without the application of the requirements for its composition set out in the first subparagraph.

4. Beneficiaries shall cooperate in the development and implementation of operations. In addition, they shall cooperate in the staffing or the financing of operations, or in both.

For operations in programmes set up between outermost regions and third countries or territories, the beneficiaries shall be required to cooperate only in two of the fields mentioned in the first subparagraph.

5. For each operation, the managing authority shall provide to the lead or sole beneficiary a document setting out the conditions for support of the operation, including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, and the time-limit for execution.

*Article 13***Beneficiaries**

1. Where there are two or more beneficiaries of an operation in a cooperation programme, one of them shall be designated by all the beneficiaries as the lead beneficiary.
2. The lead beneficiary shall:
 - (a) lay down the arrangements with other beneficiaries in an agreement comprising provisions that, inter alia, guarantee the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid;
 - (b) assume responsibility for ensuring implementation of the entire operation;
 - (c) ensure that expenditure presented by all beneficiaries has been incurred in implementing the operation and corresponds to the activities agreed between all the beneficiaries, and is in accordance with the document provided by the managing authority pursuant to Article 12(5);
 - (d) ensure that the expenditure presented by other beneficiaries has been verified by a controller or controllers where this verification is not carried out by the managing authority pursuant to Article 23(3).
3. If not otherwise specified in the arrangements laid down in accordance with point (a) of paragraph 2 the lead beneficiary shall ensure that the other beneficiaries receive the total amount of the contribution from the funds as quickly as possible and in full. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce that amount for the other beneficiaries.
4. Lead beneficiaries shall be located in a Member State participating in the cooperation programme. However, Member States and third countries or territories participating in a cooperation programme may agree to the lead beneficiary being located in a third country or territory participating in that cooperation programme, provided that the managing authority is satisfied that the lead beneficiary can carry out the tasks set out in paragraphs 2 and 3 and that the requirements for management, verification and audit are fulfilled.
5. Sole beneficiaries shall be registered in a Member State participating in the cooperation programme. However, they may be registered in a Member State not participating in the programme, provided the conditions set out in Article 12(3) are satisfied.

CHAPTER IV

Monitoring and evaluation*Article 14***Implementation reports**

1. By 31 May 2016 and by the same date of each subsequent year until and including 2023, the managing authority shall submit to the Commission an annual implementation report in accordance with Article 50(1) of Regulation (EU) No 1303/2013. The implementation report submitted in 2016 shall cover the financial years 2014 and 2015, as well as the period between the starting date for eligibility of expenditure and 31 December 2013.
 2. For the reports submitted in 2017 and 2019, the deadline referred to in paragraph 1 shall be 30 June.
 3. Annual implementation reports shall set out information on:
 - (a) implementation of the cooperation programme in accordance with Article 50(2) of Regulation (EU) No 1303/2013;
 - (b) where appropriate, progress in preparation and implementation of major projects and joint action plans.
 4. The annual implementation reports submitted in 2017 and 2019 shall set out and assess the information required under Articles 50(4) and (5) of Regulation (EU) No 1303/2013 respectively and the information set out in paragraph 2 of this Article together with the following information:
 - (a) progress in implementation of the evaluation plan and the follow-up given to the findings of evaluations;
 - (b) the results of the information and publicity measures carried out under the communication strategy;
 - (c) the involvement of the partners in the implementation, monitoring and evaluation of the cooperation programme.
- The annual implementation reports submitted in 2017 and 2019 may, subject to the content and objectives of each cooperation programme, set out information on and assess the following:
- (a) progress in the implementation of the integrated approach to territorial development, including sustainable urban development, and community-led local development under the cooperation programme;

- (b) progress in the implementation of actions to reinforce the capacity of authorities and beneficiaries to administer and to use the ERDF;
- (c) where appropriate, the contribution to macro-regional and sea basin strategies;
- (d) the specific actions taken to promote equality between men and women and to promote non-discrimination, in particular accessibility for persons with disabilities, and the arrangements implemented to ensure the integration of gender perspective in the cooperation programme and operations;
- (e) actions taken to promote sustainable development;
- (f) progress in the implementation of actions in the field of social innovation.

5. The annual and final implementation reports shall be drawn up following models adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2) of Regulation (EU) No 1303/2013.

Article 15

Annual review

The annual review meeting shall be organised in accordance with Article 51 of Regulation (EU) No 1303/2013.

Where an annual review meeting is not organised pursuant to Article 51(3) of Regulation (EU) No 1303/2013, the annual review may be carried out in writing.

Article 16

Indicators for the European territorial cooperation goal

1. Common output indicators, as set out in the Annex to this Regulation, programme-specific result indicators and, where relevant, programme-specific output indicators shall be used in accordance with Article 27(4) of Regulation (EU) No 1303/2013 and with point (b)(ii) and (iv) and point (c)(ii) and (iv) of the first subparagraph of Article 8(2) of this Regulation.

2. For common and programme-specific output indicators, baselines shall be set at zero. Cumulative quantified target values for those indicators shall be set for 2023.

3. For programme-specific result indicators, which relate to investment priorities, baselines shall use the latest available data and targets shall be set for 2023. Targets may be expressed in quantitative or qualitative terms.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to amend the list of common output indicators set out in the Annex, in order to make adjustments, where justified to ensure effective assessment of progress in programme implementation.

Article 17

Technical assistance

The amount of the ERDF allocated to technical assistance shall be limited to 6 % of the total amount allocated to a cooperation programme. For programmes with a total allocation not exceeding EUR 50 000 000 the amount of the ERDF allocated to technical assistance shall be limited to 7 % of the total amount allocated, but shall not be less than EUR 1 500 000 and not higher than EUR 3 000 000.

CHAPTER V

Eligibility

Article 18

Rules on eligibility of expenditure

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to lay down specific rules on eligibility of expenditure for cooperation programmes with regard to staff costs, office and administrative expenditure, travel and accommodation costs, external expertise and services costs, and equipment expenditure. The Commission shall notify the delegated acts, adopted in accordance with Article 29, simultaneously to the European Parliament and to the Council by 22 April 2014.

2. Without prejudice to the eligibility rules laid down in, or on the basis of, Articles 65 to 71 of Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013, this Regulation or the delegated act referred to in paragraph 1 of this Article, the participating Member States in the monitoring committee, shall establish additional rules on eligibility of expenditure for the cooperation programme as a whole.

3. For matters not covered by eligibility rules laid down in, or on the basis of, Articles 65 to 71 of Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013, in the delegated act referred to in paragraph 1 of this Article or in rules established jointly by the participating Member States in accordance with paragraph 2 of this Article, the national rules of the Member State in which the expenditure is incurred shall apply.

Article 19

Staff costs

Staff costs of an operation may be calculated at a flat rate of up to 20 % of the direct costs other than the staff costs of that operation.

*Article 20***Eligibility of operations in cooperation programmes depending on location**

1. Operations under cooperation programmes, subject to the derogations referred to in paragraphs 2 and 3, shall be located in the part of the programme area comprising Union territory (the 'Union part of the programme area').

2. The managing authority may accept that all or part of an operation is implemented outside the Union part of the programme area, provided that all the following conditions are satisfied:

- (a) the operation is for the benefit of the programme area;
 - (b) the total amount allocated under the cooperation programme to operations located outside the Union part of the programme area does not exceed 20 % of the support from the ERDF at programme level, or 30 % in the case of cooperation programmes for which the Union part of the programme area consists of outermost regions;
 - (c) the obligations of the managing and audit authorities in relation to management, control and audit concerning the operation are fulfilled by the cooperation programme authorities, or they enter into agreements with authorities in the Member State or third country or territory in which the operation is implemented.
3. For operations concerning technical assistance or promotional activities and capacity-building, expenditure may be incurred outside the Union part of the programme area provided that the conditions in points (a) and (c) of paragraph 2 are satisfied.

CHAPTER VI

Management, control and designation*Article 21***Designation of authorities**

1. Member States participating in a cooperation programme shall designate, for the purposes of Article 123(1) of Regulation (EU) No 1303/2013, a single managing authority; for the purposes of Article 123(2) of that Regulation, a single certifying authority; and, for the purposes of Article 123(4) of that Regulation, a single audit authority. The managing authority and the audit authority shall be located in the same Member State.

Member States participating in a cooperation programme may designate the managing authority as also being responsible for carrying out the functions of the certifying authority. Such a designation shall be without prejudice to the apportionment of

liabilities in relation to the application of financial corrections among the participating Member States as laid down in the cooperation programme.

2. The certifying authority shall receive the payments made by the Commission and shall, as a general rule, make payments to the lead beneficiary in accordance with Article 132 of Regulation (EU) No 1303/2013.

3. The procedure for the designation of the managing authority and, where appropriate, of the certifying authority, set out in Article 124 of Regulation (EU) No 1303/2013, shall be carried out by the Member State in which the authority is located.

*Article 22***European grouping of territorial cooperation**

Member States participating in a cooperation programme may make use of an EGTC for the purposes of making it responsible for managing that cooperation programme or part thereof, in particular by conferring on it the responsibilities of a managing authority.

*Article 23***Functions of the managing authority**

1. Without prejudice to paragraph 4 of this Article, the managing authority of a cooperation programme shall carry out the functions laid down in Article 125 of Regulation (EU) No 1303/2013.

2. The managing authority, after consultation with the Member States and any third countries participating in a cooperation programme, shall set up a joint secretariat.

The joint secretariat shall assist the managing authority and the monitoring committee in carrying out their respective functions. The joint secretariat shall also provide information to potential beneficiaries about funding opportunities under cooperation programmes and shall assist beneficiaries in the implementation of operations.

3. Where the managing authority is an EGTC, verifications under point (a) of Article 125(4) of Regulation (EU) No 1303/2013 shall be carried out by or under the responsibility of the managing authority at least for those Member States and third countries or territories from which there are members participating in the EGTC.

4. Where the managing authority does not carry out verifications under point (a) of Article 125(4) of Regulation (EU) No 1303/2013 throughout the whole programme area, or where the verifications are not carried out by or under the responsibility of the managing authority for those Member States and third countries or territories from which there are members participating in the EGTC in accordance with paragraph 3, each Member State or, where it has accepted the invitation to participate in the cooperation programme, each third country or territory shall designate the body or person responsible for carrying out such verifications in relation to beneficiaries on its territory (the 'controller(s)').

The controllers referred to in the first subparagraph may be the same bodies responsible for carrying out such verifications for the operational programmes under the Investment for growth and jobs goal or, in the case of third countries, for carrying out comparable verifications under external policy instruments of the Union.

The managing authority shall satisfy itself that the expenditure of each beneficiary participating in an operation has been verified by a designated controller.

Each Member State shall ensure that the expenditure of a beneficiary can be verified within a period of three months of the submission of the documents by the beneficiary concerned.

Each Member State or, where it has accepted the invitation to participate in the cooperation programme, each third country shall be responsible for verifications carried out on its territory.

5. Where the delivery of co-financed products or services can be verified only in respect of an entire operation, the verification shall be performed by the managing authority or by the controller of the Member State where the lead beneficiary is located.

Article 24

Functions of the certifying authority

The certifying authority of a cooperation programme shall carry out the functions laid down in Article 126 of Regulation (EU) No 1303/2013.

Article 25

Functions of the audit authority

1. The Member States and third countries participating in a cooperation programme may authorise the audit authority to carry out directly the functions provided for in Article 127 of Regulation (EU) No 1303/2013 in the whole of the territory covered by a cooperation programme. They shall specify when the audit authority is to be accompanied by an auditor of a Member State or a third country.

2. Where the audit authority does not have the authorisation referred to in paragraph 1, it shall be assisted by a group of auditors composed of a representative from each Member State or third country participating in the cooperation programme and carrying out the functions provided for in Article 127 of Regulation (EU) No 1303/2013. Each Member State or, where it has accepted the invitation to participate in a cooperation programme, each third country shall be responsible for audits carried out on its territory.

Each representative from each Member State or third country participating in the cooperation programme shall be responsible for providing the factual elements relating to expenditure on its territory that are required by the audit authority in order to perform its assessment.

The group of auditors shall be set up within three months of the decision approving the cooperation programme. It shall draw up its own rules of procedure and be chaired by the audit authority for the cooperation programme.

3. The auditors shall be functionally independent of controllers who carry out verifications under Article 23.

CHAPTER VII

Participation of third countries in transnational and interregional cooperation programmes

Article 26

Implementation conditions for the participation of third countries

The applicable programme implementation conditions governing the financial management as well as the programming, monitoring, evaluation and control of the participation of third countries, through a contribution of IPA II or ENI resources to transnational and interregional cooperation programmes, shall be established in the relevant cooperation programme and also, where necessary, in the financing agreement between the Commission, the governments of the third countries concerned and the Member State hosting the managing authority of the relevant cooperation programme. Programme implementation conditions shall be consistent with the Union's cohesion policy rules.

CHAPTER VIII

Financial management

Article 27

Budget commitments, payments and recoveries

1. The ERDF support to cooperation programmes shall be paid into a single account with no national subaccounts.

2. The managing authority shall ensure that any amount paid as a result of an irregularity is recovered from the lead or sole beneficiary. Beneficiaries shall repay to the lead beneficiary any amounts unduly paid.

3. If the lead beneficiary does not succeed in securing repayment from other beneficiaries or if the managing authority does not succeed in securing repayment from the lead or sole beneficiary, the Member State or third country on whose territory the beneficiary concerned is located or, in the case of an EGTC, is registered shall reimburse the managing authority any amounts unduly paid to that beneficiary. The managing authority shall be responsible for reimbursing the amounts concerned to the general budget of the Union, in accordance with the apportionment of liabilities among the participating Member States as laid down in the cooperation programme.

Article 28

Use of the euro

By way of derogation from Article 133 of Regulation (EU) No 1303/2013, expenditure incurred in a currency other than the euro shall be converted into euro by the beneficiaries using the monthly accounting exchange rate of the Commission in the month during which that expenditure was either:

- (a) incurred;
- (b) submitted for verification to the managing authority or the controller in accordance with Article 23 of this Regulation; or
- (c) reported to the lead beneficiary.

The method chosen shall be set out in the cooperation programme and be applicable to all beneficiaries.

The conversion shall be verified by the managing authority or by the controller in the Member State or third country in which the beneficiary is located.

CHAPTER IX

Final provisions

Article 29

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power to adopt delegated acts referred to in Articles 16(4) and 18(1) shall be conferred on the Commission from 21 December 2013 until 31 December 2020.
3. The delegation of power referred to in Articles 16(4) and 18(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
R. ŠADŽIUS

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 16(4) and 18(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 30

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation of assistance approved by the Commission on the basis of Regulation (EC) No 1080/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation shall consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. For the purposes of this paragraph assistance shall cover operational programmes and major projects.

2. Applications to receive assistance made or approved under Regulation (EC) No 1080/2006 before 1 January 2014 shall remain valid.

Article 31

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020, in accordance with Article 178 TFEU.

Article 32

Entry into force

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

Articles 4, 27 and 28 shall apply with effect from 1 January 2014.

ANNEX

COMMON OUTPUT INDICATORS FOR THE EUROPEAN TERRITORIAL COOPERATION GOAL

	UNIT	NAME
Productive investment		
	enterprises	Number of enterprises receiving support
	enterprises	Number of enterprises receiving grants
	enterprises	Number of enterprises receiving financial support other than grants
	enterprises	Number of enterprises receiving non-financial support
	enterprises	Number of new enterprises supported
	enterprises	Number of enterprises participating in cross-border, transnational or interregional research projects
	organisations	Number of research institutions participating in cross-border, transnational or interregional research projects
	EUR	Private investment matching public support to enterprises (grants)
	EUR	Private investment matching public support to enterprises (non-grants)
	full time equivalents	Employment increase in supported enterprises
Sustainable tourism	visits/year	Increase in expected number of visits to supported sites of cultural and natural heritage and attractions
ICT Infrastructure	households	Additional households with broadband access of at least 30 Mbps
Transport		
Railway	kilometres	Total length of new railway lines
		of which: TEN-T
	kilometres	Total length of reconstructed or upgraded railway lines
		of which: TEN-T
Roads	kilometres	Total length of newly built roads
		of which: TEN-T
	kilometres	Total length of reconstructed or upgraded roads
		of which: TEN-T
Urban transport	kilometres	Total length of new or improved tram and metro lines
Inland waterways	kilometres	Total length of new or improved inland waterways
Environment		
Solid waste	tonnes/year	Additional waste recycling capacity

	UNIT	NAME
Water supply	persons	Additional population served by improved water supply
Wastewater treatment	population equivalent	Additional population served by improved wastewater treatment
Risk prevention and management	persons	Population benefiting from flood protection measures
	persons	Population benefiting from forest fire protection measures
Land rehabilitation	hectares	Total surface area of rehabilitated land
Nature and biodiversity	hectares	Surface area of habitats supported in order to attain a better conservation status
Research, Innovation		
	full time equivalents	Number of new researchers in supported entities
	full time equivalents	Number of researchers working in improved research infrastructure facilities
	enterprises	Number of enterprises cooperating with research institutions
	EUR	Private investment matching public support in innovation or R&D projects
	enterprises	Number of enterprises supported to introduce new to the market products
	enterprises	Number of enterprises supported to introduce new to the firm products
Energy and Climate change		
Renewables	MW	Additional capacity of renewable energy production
Energy efficiency	households	Number of households with improved energy consumption classification
	kWh/year	Decrease of annual primary energy consumption of public buildings
	users	Number of additional energy users connected to smart grids
GHG reduction	tonnes of CO ₂ eq	Estimated annual decrease of GHG
Social infrastructure		
Childcare & education	persons	Capacity of supported childcare or education infrastructure
Health	persons	Population covered by improved health services
Urban development specific indicators		
	persons	Population living in areas with integrated urban development strategies
	square metres	Open space created or rehabilitated in urban areas

	UNIT	NAME
	square metres	Public or commercial buildings built or renovated in urban areas
	housing units	Rehabilitated housing in urban areas
Labour Market and Training ⁽¹⁾		
	persons	Number of participants in cross-border mobility initiatives
	persons	Number of participants in joint local employment initiatives and joint training
	persons	Number of participants in projects promoting gender equality, equal opportunities and social inclusion across borders
	persons	Number of participants in joint education and training schemes to support youth employment, educational opportunities and higher and vocational education across borders

⁽¹⁾ Where relevant, the information on participants will be broken down by their labour market status, indicating whether they are "employed", "unemployed", "long-term unemployed", "inactive" or "inactive and not in education or training".

Joint statement of the European Parliament and of the Council concerning the application of Article 6 of the ERDF Regulation, Article 15 of the ETC Regulation and Article 4 of the Cohesion Fund Regulation

The European Parliament and the Council note the assurance provided by the Commission to the EU legislature that the common output indicators for the ERDF Regulation, the ETC Regulation and the Cohesion Fund Regulation to be included in an annex to, respectively, each regulation, are the outcome of a lengthy preparatory process involving the evaluation experts of both the Commission and the Member States and, in principle, are expected to remain stable.

REGULATION (EU) No 1300/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013
on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006

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 the second paragraph of Article 177 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The first paragraph of Article 174 of the Treaty on the Functioning of the European Union (TFEU) provides that the Union is to develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion. The Cohesion Fund which is established by this Regulation should, therefore, provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.
- (2) Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽³⁾ sets out provisions common to the European Regional Development Fund (ERDF), the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development

and the European Maritime and Fisheries Fund. That Regulation constitutes a new framework for the European Structural and Investment Funds including the Cohesion Fund. It is necessary, therefore, to specify the tasks of the Cohesion Fund in relation to that framework and in relation to the purpose assigned to the Cohesion Fund in the TFEU.

- (3) Specific provisions concerning the type of activities which can be supported by the Cohesion Fund, in order to contribute to the investment priorities within the thematic objectives set out in Regulation (EU) No 1303/2013, should be laid down.
- (4) The Union should be able to contribute, through the Cohesion Fund, to actions in pursuit of its environmental objectives, in accordance with Articles 11 and 191 TFEU, namely energy efficiency and renewable energy and, in the transport sector outside the trans-European networks, rail, river and sea transport, intermodal transport systems and their interoperability, management of road, sea and air traffic, clean urban transport and public transport.
- (5) It should be recalled that where measures based on Article 192(1) TFEU involve costs deemed disproportionate for the public authorities of a Member State and financial support from the Cohesion Fund is provided in accordance with Article 192(5) TFEU, the polluter pays principle is nevertheless to apply.
- (6) Trans-European transport network (TEN-T) projects supported by the Cohesion Fund are to comply with the guidelines established in Regulation (EU) No 1315/2013 of the European Parliament and of the Council ⁽⁴⁾. In order to concentrate efforts in that regard, priority should be given to projects of common interest as defined in that Regulation.
- (7) Investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC of the European Parliament and of the Council ⁽⁵⁾ should not be eligible for support from the Cohesion Fund as it already benefits financially from the

⁽¹⁾ OJ C 191, 29.6.2012, p. 38.

⁽²⁾ OJ C 225, 27.7.2012, p. 143.

⁽³⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

⁽⁴⁾ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

⁽⁵⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

application of that Directive. That exclusion should not restrict the possibility of using the Cohesion Fund to support activities that are not listed in Annex I to Directive 2003/87/EC even if those activities are implemented by the same economic operators, and include activities such as energy efficiency investment in the co-generation of heat and power and in district heating networks, smart energy distribution, storage and transmission systems and measures aimed at reducing air pollution, even if one of the indirect effects of such activities is the reduction of greenhouse gas emissions, or if they are listed in the national plan referred to in Directive 2003/87/EC.

- (8) It is not possible for investment in housing, other than that related to the promotion of energy efficiency or renewable energy use, to be eligible for support from the Cohesion Fund as it falls outside the scope of support from the Cohesion Fund as defined in the TFEU.
- (9) In order to accelerate the development of transport infrastructure across the Union, the Cohesion Fund should support transport infrastructure projects of European added value provided for in Regulation (EU) No 1316/2013 of the European Parliament and of the Council⁽¹⁾ for a total amount of EUR 10 000 000 000. The allocation of support from the Cohesion Fund to those projects should comply with the rules established under Article 92(6) of Regulation (EU) No 1303/2013. In accordance with Regulation (EU) No 1316/2013, support should be available only to Member States eligible for funding from the Cohesion Fund, with the co-financing rates applicable to that Fund.
- (10) It is important to ensure that, in promoting risk management investment, specific risks at regional, cross-border and transnational level are taken into account.
- (11) Complementarity and synergies between interventions supported by the Cohesion Fund, the ERDF, the European territorial cooperation goal and the Connecting Europe Facility should be ensured, in order to avoid duplication of efforts and to guarantee the optimal linkage of different types of infrastructure at local, regional and national level, and throughout the Union.
- (12) In order to address the specific needs of the Cohesion Fund, and in line with the Union strategy for smart,

sustainable and inclusive growth, it is necessary to set out within each thematic objective laid down in Regulation (EU) No 1303/2013, the Cohesion Fund-specific actions as 'investment priorities'. Those investment priorities should set out detailed objectives, which are not mutually exclusive, to which the Cohesion Fund is to contribute. Such investment priorities should form the basis for the definition of specific objectives within operational programmes that take into account the needs and characteristics of the programme area. In order to increase flexibility and reduce the administrative burden through joint implementation, the ERDF and the Cohesion Fund investment priorities under the corresponding thematic objectives should be aligned.

- (13) A common set of output indicators to assess the aggregated progress at Union level of the implementation of operational programmes should be set out in an Annex to this Regulation. Those indicators should correspond to the investment priority and type of action supported in accordance with this Regulation and the relevant provisions of Regulation (EU) No 1303/2013. The common output indicators should be complemented by programme-specific result indicators and, where relevant, by programme-specific output indicators.
- (14) In order to amend this Regulation with regard to certain non-essential elements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the list of common output indicators set out in Annex I to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (15) Since the objective of this Regulation, namely to strengthen the economic, social and territorial cohesion of the Union in the interests of promoting sustainable development, cannot be sufficiently achieved by the Member States but can rather, by reason of the extent of the disparities between the levels of development of the various regions and the backwardness of the least favoured regions and the limit on the financial resources of the Member States and regions, 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.

⁽¹⁾ Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

- (16) Since this Regulation replaces Council Regulation (EC) No 1084/2006 ⁽¹⁾, that Regulation should be repealed. However, this Regulation should not affect either the continuation or modification of assistance approved by the Commission on the basis of Regulation (EC) No 1084/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation should consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. Applications to receive assistance made or approved under Regulation (EC) No 1084/2006 should remain valid.
- (17) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Establishment of the Cohesion Fund and subject matter

1. A Cohesion Fund is hereby established for the purpose of strengthening the economic, social and territorial cohesion of the Union in the interests of promoting sustainable development.
2. This Regulation establishes the tasks of the Cohesion Fund and the scope of its support with regard to the Investment for growth and jobs goal referred to in Article 89 of Regulation (EU) No 1303/2013.

Article 2

Scope of support from the Cohesion Fund

1. The Cohesion Fund shall, while ensuring an appropriate balance and according to the investment and infrastructure needs specific to each Member State, support:
- (a) investment in the environment, including areas related to sustainable development and energy which present environmental benefits;
- (b) TEN-T, in compliance with the guidelines adopted by Regulation (EU) No 1315/2013;
- (c) technical assistance.
2. The Cohesion Fund shall not support:
- (a) the decommissioning or the construction of nuclear power stations;

⁽¹⁾ Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94 (OJ L 210, 31.7.2006, p. 79).

- (b) investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC;
- (c) investment in housing unless related to the promotion of energy efficiency or renewable energy use;
- (d) the manufacturing, processing and marketing of tobacco and tobacco products;
- (e) undertakings in difficulty, as defined under Union State aid rules;
- (f) investment in airport infrastructure unless related to environmental protection or accompanied by investment necessary to mitigate or reduce its negative environmental impact.

Article 3

Cohesion Fund support for transport infrastructure projects under the Connecting Europe Facility

The Cohesion Fund shall support transport infrastructure projects of European added value provided for in Regulation (EU) No 1316/2013 for an amount of EUR 10 000 000 000 in accordance with Article 92(6) of Regulation (EU) No 1303/2013.

Article 4

Investment priorities

The Cohesion Fund shall support the following investment priorities within the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013, in accordance with the development needs and growth potential referred to in point (a)(i) of Article 15(1) of that Regulation and set out in the Partnership Agreement:

- (a) supporting the shift towards a low-carbon economy in all sectors by:
- (i) promoting the production and distribution of energy derived from renewable sources;
- (ii) promoting energy efficiency and renewable energy use in enterprises;
- (iii) supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector;
- (iv) developing and implementing smart distribution systems that operate at low and medium voltage levels;

- (v) promoting low-carbon strategies for all types of territories, in particular for urban areas, including the promotion of sustainable multimodal urban mobility and mitigation-relevant adaptation measures;
- (vi) promoting the use of high-efficiency co-generation of heat and power based on useful heat demand;
- (b) promoting climate change adaptation, risk prevention and management by:
- (i) supporting investment for adaptation to climate change, including ecosystem-based approaches;
- (ii) promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems;
- (c) preserving and protecting the environment and promoting resource efficiency by:
- (i) investing in the waste sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements;
- (ii) investing in the water sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements;
- (iii) protecting and restoring biodiversity and soil and promoting ecosystem services, including through Natura 2000, and green infrastructure;
- (iv) taking action to improve the urban environment, to revitalise cities, regenerate and decontaminate brownfield sites (including conversion areas), reduce air pollution and promote noise-reduction measures;
- (d) promoting sustainable transport and removing bottlenecks in key network infrastructures by:
- (i) supporting a multimodal Single European Transport Area by investing in the TEN-T;
- (ii) developing and improving environmentally-friendly (including low-noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility;
- (iii) developing and rehabilitating comprehensive, high quality and interoperable railway systems, and promoting noise-reduction measures;
- (e) enhancing institutional capacity of public authorities and stakeholders and efficient public administration through actions to strengthen the institutional capacity and the efficiency of public administrations and public services related to the implementation of the Cohesion Fund.

Article 5

Indicators

1. Common output indicators, as set out in Annex I to this Regulation, programme-specific result indicators and, where relevant, programme-specific output indicators shall be used in accordance with Article 27(4) and point (b)(ii) and (iv) and point (c)(ii) and (iv) of Article 96(2) of Regulation (EU) No 1303/2013.
2. For common and programme-specific output indicators, baselines shall be set at zero. Cumulative quantified target values for those indicators shall be set for 2023.
3. For programme-specific result indicators, which relate to investment priorities, baselines shall use the latest available data and targets shall be set for 2023. Targets may be expressed in quantitative or qualitative terms.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 7 to amend the list of common output indicators set out in Annex I, in order to make adjustments, where justified to ensure effective assessment of progress in operational programme implementation.

Article 6

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation of assistance approved by the Commission on the basis of Regulation (EC) No 1084/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation shall consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. For the purposes of this paragraph assistance shall cover operational programmes and major projects.

2. Applications to receive assistance made or approved under Regulation (EC) No 1084/2006 shall remain valid.

Article 7

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 5(4) shall be conferred on the Commission from 21 December 2013 until 31 December 2020.

3. The delegation of power referred to in Article 5(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 5(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the

European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 8

Repeal

Without prejudice to Article 6 of this Regulation, Regulation (EC) No 1084/2006 is hereby repealed with effect from 1 January 2014.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex II.

Article 9

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020, in accordance with Article 177 TFEU.

Article 10

Entry into force

This Regulation shall enter into force on the 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, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
R. ŠADŽIUS

ANNEX I

COMMON OUTPUT INDICATORS FOR THE COHESION FUND

	UNIT	NAME
Environment		
Solid waste	tonnes/year	Additional waste recycling capacity
Water supply	persons	Additional population served by improved water supply
Wastewater treatment	population equivalent	Additional population served by improved wastewater treatment
Risk prevention and management	persons	Population benefiting from flood protection measures
	persons	Population benefiting from forest fire protection measures
Land rehabilitation	hectares	Total surface area of rehabilitated land
Nature and biodiversity	hectares	Surface area of habitats supported in order to attain a better conservation status
Energy and climate change		
Renewables	MW	Additional capacity of renewable energy production
Energy efficiency	households	Number of households with improved energy consumption classification
	kWh/year	Decrease of annual primary energy consumption of public buildings
	users	Number of additional energy users connected to smart grids
GHG reduction	tonnes of CO ₂ eq	Estimated annual decrease of GHG
Transport		
Railway	kilometres	Total length of new railway lines
	kilometres	Total length of reconstructed or upgraded railway lines
Roads	kilometres	Total length of newly built roads
	kilometres	Total length of reconstructed or upgraded roads
Urban transport	kilometres	Total length of new or improved tram and metro lines
Inland waterways	kilometres	Total length of new or improved inland waterways

ANNEX II

CORRELATION TABLE

Regulation (EC) No 1084/2006	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	—
Article 4	—
—	Article 3
—	Article 4
—	Article 5
Article 5	Article 6
Article 5a	—
—	Article 7
Article 6	Article 8
Article 7	Article 9
Article 8	Article 10

Joint statement of the European Parliament and of the Council concerning the application of Article 6 of the ERDF Regulation, Article 15 of the ETC Regulation and Article 4 of the Cohesion Fund Regulation

The European Parliament and the Council note the assurance provided by the Commission to the EU legislature that the common output indicators for the ERDF Regulation, the ETC Regulation and the Cohesion Fund Regulation to be included in an annex to, respectively, each regulation, are the outcome of a lengthy preparatory process involving the evaluation experts of both the Commission and the Member States and, in principle, are expected to remain stable.

REGULATION (EU) No 1301/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013

**on the European Regional Development Fund and on specific provisions concerning the Investment
for growth and jobs goal and repealing Regulation (EC) No 1080/2006**

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 Articles 178 and 349 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Article 176 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Regional Development Fund (ERDF) is intended to help to redress the main regional imbalances in the Union. Under that Article and the second and third paragraphs of Article 174 TFEU, the ERDF is to contribute to reducing disparities between the levels of development of the various regions and to reducing the backwardness of the least favoured regions, among which particular attention is to be paid to regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.

(2) Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽³⁾ sets out the provisions

common to the ERDF, the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund.

(3) Specific provisions concerning the type of activities which can be supported by the ERDF, in order to contribute to the investment priorities within the thematic objectives set out in Regulation (EU) No 1303/2013, should be laid down. At the same time, activities outside the scope of the ERDF should be defined and clarified, including investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC of the European Parliament and of the Council ⁽⁴⁾. In order to avoid excessive financing, such investment should not be eligible for support from the ERDF as it already benefits financially from the application of Directive 2003/87/EC. That exclusion should not restrict the possibility of using the ERDF to support activities that are not listed in Annex I to Directive 2003/87/EC even if those activities are implemented by the same economic operators, and include activities such as energy efficiency investments in district heating networks, smart energy distribution, storage and transmission systems and measures aimed at reducing air pollution, even if one of the indirect effects of such activities is the reduction of greenhouse gas emissions, or if they are listed in the national plan referred to in Directive 2003/87/EC.

(4) It is necessary to specify what additional activities can be supported by the ERDF under the European territorial cooperation goal.

(5) The ERDF should contribute to the Union strategy for smart, sustainable and inclusive growth, thus ensuring greater concentration of ERDF support on the priorities of the Union. Depending on which category of regions is supported, the support from the ERDF under the Investment for growth and jobs goal should be concentrated on research and innovation, information and communication technologies (ICT), small and medium-sized enterprises (SMEs) and promoting a low-carbon economy. That thematic concentration should be attained at national level while allowing for flexibility at the level of operational programmes and between different categories of regions. The thematic concentration should be adjusted, where appropriate, to take

⁽¹⁾ OJ C 191, 29.6.2012, p. 44.

⁽²⁾ OJ C 225, 27.7.2012, p. 114.

⁽³⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

⁽⁴⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

into account Cohesion Fund resources allocated to supporting the investment priorities relating to the shift towards a low-carbon economy and referred to in Regulation (EU) No 1300/2013 of the European Parliament and of the Council ⁽¹⁾. The degree of thematic concentration should take into account the level of development of the region, the contribution of Cohesion Fund resources where applicable, as well as the specific needs of regions whose GDP per capita used as an eligibility criterion for the 2007-2013 programming period was less than 75 % of the average GDP of the EU-25 for the reference period, regions designated with phasing-out status in the 2007-2013 programming period and certain NUTS level 2 regions consisting solely of island Member States or of islands.

- (6) It should be possible for support from the ERDF under the investment priority 'community-led local development' to contribute to all of the thematic objectives referred to in this Regulation.
- (7) In order to address the specific needs of the ERDF, and in line with the Union strategy for smart, sustainable and inclusive growth, it is necessary to set out within each thematic objective laid down in Regulation (EU) No 1303/2013, the ERDF-specific actions as 'investment priorities'. Those investment priorities should set out detailed objectives, which are not mutually exclusive, to which the ERDF is to contribute. Such investment priorities should form the basis for the definition of specific objectives within programmes that take into account the needs and characteristics of the programme area.
- (8) It is necessary to promote innovation and the development of SMEs, in emerging fields linked to European and regional challenges such as creative and cultural industries and innovative services, reflecting new societal demands, or to products and services linked to an ageing population, care and health, eco-innovation, the low-carbon economy and resource efficiency.
- (9) In accordance with Regulation (EU) No 1303/2013, in order to optimise the added value from investments funded wholly or in part through the Union budget in the field of research and innovation, synergies will be sought in particular between the operation of the ERDF and Horizon 2020 - the Framework Programme for Research and Innovation whilst respecting their distinct objectives.
- (10) It is important to ensure that, in promoting risk management investments, specific risks at regional, cross-border and transnational level are taken into account.
- (11) In order to maximise their contribution to the objective of supporting employment-friendly growth, activities supporting sustainable tourism, culture and natural heritage should be part of a territorial strategy for specific areas, including the conversion of declining industrial regions. Support for such activities should also contribute to strengthening innovation and the use of ICT, SMEs, environment and resource efficiency or the promotion of social inclusion.
- (12) In order to promote sustainable regional or local mobility or to reduce air and noise pollution, it is necessary to promote healthy, sustainable and safe modes of transport. Investments in airport infrastructure supported by the ERDF should promote environmentally sustainable air transport when, inter alia, enhancing regional mobility by connecting secondary and tertiary nodes to trans-European transport network (TEN-T) infrastructure, including through multimodal nodes.
- (13) In order to promote the achievement of the energy and climate targets set by the Union as part of the Union strategy for smart, sustainable and inclusive growth, the ERDF should support investment to promote energy efficiency and security of supply in Member States through, inter alia, the development of smart energy distribution, storage and transmission systems, including through the integration of distributed generation from renewable sources. In order to meet their security of supply requirements in a manner that is consistent with their targets under the Union strategy for smart, sustainable and inclusive growth, Member States should be able to invest in energy infrastructure that is consistent with their chosen energy mix.
- (14) SMEs, which can include social economy enterprises, should be understood, in accordance with the definition laid down in Regulation (EU) No 1303/2013, as covering micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC ⁽²⁾.
- (15) In order to promote social inclusion and combat poverty, particularly among marginalised communities, it is necessary to improve access to social, cultural and

⁽¹⁾ Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 (See page 281 of this Official Journal).

⁽²⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- recreational services, through the provision of small-scale infrastructure, taking account of the specific needs of persons with disabilities and the elderly.
- (16) Community-based services should cover all forms of in-home, family-based, residential and other community services which support the right of all persons to live in the community, with an equality of choices, and which seek to prevent isolation or segregation from the community.
- (17) In order to increase flexibility and reduce the administrative burden through joint implementation, the ERDF and the Cohesion Fund investment priorities under the corresponding thematic objectives should be aligned.
- (18) A common set of output indicators to assess the aggregated progress at Union level of the implementation of programmes should be set out in an Annex to this Regulation. Those indicators should correspond to the investment priority and type of action supported in accordance with this Regulation and the relevant provisions of Regulation (EU) No 1303/2013. The common output indicators should be complemented by programme-specific result indicators and, where relevant, by programme-specific output indicators.
- (19) Within the framework of sustainable urban development, it is considered necessary to support integrated actions to tackle the economic, environmental, climate, demographic and social challenges affecting urban areas, including functional urban areas, while taking into account the need to promote urban-rural linkages. The principles for selecting the urban areas where integrated actions for sustainable urban development are to be implemented, and the indicative amounts for those actions, should be set out in the Partnership Agreement with a minimum of 5 % of the ERDF resources allocated at national level for that purpose. The scope of any delegation of tasks to urban authorities should be decided upon by the managing authority in consultation with the urban authority.
- (20) In order to identify or test new solutions which address issues that are related to sustainable urban development and are of relevance at Union level, the ERDF should support innovative actions in the area of sustainable urban development.
- (21) In order to reinforce capacity-building, networking and exchange of experience between programmes and bodies responsible for implementing sustainable urban development strategies and innovative actions in the area of sustainable urban development and to complement existing programmes and bodies, it is necessary to establish an urban development network at Union level.
- (22) The ERDF should address the problems of accessibility to, and remoteness from, large markets, faced by areas with an extremely low population density, as referred to in Protocol No 6 on special provisions for Objective 6 in the framework of the Structural Funds in Finland and Sweden to the 1994 Act of Accession. The ERDF should also address the specific difficulties encountered by certain islands, border regions, mountain regions and sparsely populated areas, the geographical situation of which slows down their development, with a view to supporting their sustainable development.
- (23) Specific attention should be paid to the outermost regions, namely by adopting measures under Article 349 TFEU extending, on an exceptional basis, the scope of support from the ERDF to the financing of operating aid linked to the offsetting of the additional costs resulting from the specific economic and social situation of those regions which is compounded by the handicaps resulting from the factors referred to in Article 349 TFEU, namely remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development. Operating aid granted by Member States in that context is exempt from the notification obligation laid down in Article 108(3) TFEU, if, at the time it is granted, it fulfils the conditions laid down by a Regulation declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 TFEU, and adopted pursuant to Council Regulation (EC) No 994/98 ⁽¹⁾.
- (24) In line with the conclusions of the European Council of 7-8 February 2013, and taking into account the special objectives laid down in the TFEU concerning the outermost regions referred to in Article 349 TFEU, the status of Mayotte was changed as a result of European Council Decision 2012/419/EU ⁽²⁾ to become a new outermost region from 1 January 2014. In order to facilitate and to promote focused and rapid infrastructural development of Mayotte, it should be possible on an exceptional basis that at least 50 % of the ERDF part of Mayotte's envelope be allocated to five of the thematic objectives laid down in Regulation (EU) No 1303/2013.

⁽¹⁾ Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid (OJ L 142, 14.5.1998, p. 1).

⁽²⁾ European Council Decision 2012/419/EU of 11 July 2012 amending the status of Mayotte with regard to the European Union (OJ L 204, 31.7.2012, p. 131).

- (25) In order to supplement this Regulation with certain non-essential elements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of detailed rules for the criteria for the selection and management of innovative actions. Such power should also be delegated to the Commission in respect of amendments to Annex I to this Regulation where justified to ensure the effective assessment of progress in implementation of operational programmes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (26) Since the objective of this Regulation, namely to reinforce economic, social and territorial cohesion by redressing the main regional imbalances in the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the extent of the disparities between the levels of development of the various regions and the backwardness of the least favoured regions and the limit on the financial resources of the Member States and regions, 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.
- (27) This Regulation replaces Regulation (EC) No 1080/2006 of the European Parliament and the Council⁽¹⁾. In the interests of clarity, Regulation (EC) No 1080/2006 should therefore be repealed. However, this Regulation should not affect either the continuation or modification of assistance approved by the Commission on the basis of Regulation (EC) No 1080/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation should consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. Applications to receive assistance made or approved under Regulation (EC) No 1080/2006 should remain valid.
- (28) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

Common provisions

Article 1

Subject matter

This Regulation establishes the tasks of the European Regional Development Fund (ERDF), the scope of its support with regard to the Investment for growth and jobs goal and the European territorial cooperation goal and specific provisions concerning ERDF support for the Investment for growth and jobs goal.

Article 2

Tasks of the ERDF

The ERDF shall contribute to the financing of support which aims to reinforce economic, social and territorial cohesion by redressing the main regional imbalances in the Union through the sustainable development and structural adjustment of regional economies, including the conversion of declining industrial regions and regions whose development is lagging behind.

Article 3

Scope of support from the ERDF

1. The ERDF shall support the following activities in order to contribute to the investment priorities set out in Article 5:
 - (a) productive investment which contributes to creating and safeguarding sustainable jobs, through direct aid for investment in SMEs;
 - (b) productive investment, irrespective of the size of the enterprise concerned, which contributes to the investment priorities set out in points (1) and (4) of Article 5, and, where that investment involves cooperation between large enterprises and SMEs, in point (2) of Article 5;
 - (c) investment in infrastructure providing basic services to citizens in the areas of energy, environment, transport and ICT;
 - (d) investment in social, health, research, innovation, business and educational infrastructure;
 - (e) investment in the development of endogenous potential through fixed investment in equipment and small-scale infrastructure, including small-scale cultural and sustainable tourism infrastructure, services to enterprises, support to research and innovation bodies and investment in technology and applied research in enterprises;

⁽¹⁾ Regulation (EC) No 1080/2006 of the European Parliament and the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 (OJ L 210, 31.7.2006, p. 1).

(f) networking, cooperation and exchange of experience between competent regional, local, urban and other public authorities, economic and social partners and relevant bodies representing civil society, referred to in Article 5(1) of Regulation (EU) No 1303/2013, studies, preparatory actions and capacity-building.

2. Under the European territorial cooperation goal, the ERDF may also support the sharing of facilities and human resources, and all types of infrastructure across borders in all regions.

3. The ERDF shall not support:

- (a) the decommissioning or the construction of nuclear power stations;
- (b) investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC;
- (c) the manufacturing, processing and marketing of tobacco and tobacco products;
- (d) undertakings in difficulty, as defined under Union State aid rules;
- (e) investment in airport infrastructure unless related to environmental protection or accompanied by investment necessary to mitigate or reduce its negative environmental impact.

Article 4

Thematic concentration

1. The thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013 and the corresponding investment priorities set out in Article 5 of this Regulation to which the ERDF may contribute under the Investment for growth and jobs goal, shall be concentrated as follows:

- (a) in more developed regions:
 - (i) at least 80 % of the total ERDF resources at national level shall be allocated to two or more of the thematic objectives set out in points 1, 2, 3 and 4 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013; and
 - (ii) at least 20 % of the total ERDF resources at national level shall be allocated to the thematic objective set out in point 4 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013;
- (b) in transition regions:
 - (i) at least 60 % of the total ERDF resources at national level shall be allocated to two or more of the thematic objectives set out in points 1, 2, 3 and 4 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013; and

- (ii) at least 15 % of the total ERDF resources at national level shall be allocated to the thematic objective set out in point 4 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013;

(c) in less developed regions:

- (i) at least 50 % of the total ERDF resources at national level shall be allocated to two or more of the thematic objectives set out in points 1, 2, 3 and 4 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013; and
- (ii) at least 12 % of the total ERDF resources at national level shall be allocated to the thematic objective set out in point 4 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013.

For the purpose of this Article, regions whose GDP per capita used as an eligibility criterion for the 2007-2013 programming period was less than 75 % of the average GDP of the EU-25 for the reference period, and regions designated with phasing-out status in the 2007-2013 programming period, but which are eligible under the category of more developed regions as referred to in point (c) of the first subparagraph of Article 90(2) of Regulation (EU) No 1303/2013 in the 2014-2020 programming period, shall be considered as transition regions.

For the purpose of this Article, all NUTS level 2 regions consisting solely of island Member States or of islands which form part of Member States which receive support from the Cohesion Fund, and all outermost regions, shall be considered as less developed regions.

2. By way of derogation from paragraph 1 of this Article, the minimum ERDF share allocated to a category of region may be lower than that set out in that paragraph, provided that such a decrease is compensated by an increase in the share allocated to other categories of regions. The resulting sum at national level of the amounts for all categories of region respectively for the thematic objectives set out in points 1, 2, 3 and 4 of the first paragraph of Article 9 of Regulation (EU) No 1300/2013 and those set out in point 4 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013 shall accordingly not be less than the sum at national level resulting from applying the minimum ERDF shares set out in paragraph 1 of this Article.

3. By way of derogation from paragraph 1 of this Article, Cohesion Fund resources allocated to supporting the investment priorities set out in point (a) of Article 4 of Regulation (EU) No 1300/2013 may be counted towards achieving the minimum shares set out in points (a)(ii), (b)(ii) and (c)(ii) of the first subparagraph of paragraph 1 of this Article. In such a case, the share referred to in point (c)(ii) of the first subparagraph of paragraph 1 of this Article shall be increased to 15 %. Where applicable, those resources shall be allocated pro rata to the different categories of region based on their relative shares of the total population of the Member State concerned.

Article 5

Investment priorities

The ERDF shall support the following investment priorities within the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013, in accordance with the development needs and growth potential referred to in point (a)(i) of Article 15(1) of that Regulation and set out in the Partnership Agreement:

- (1) strengthening research, technological development and innovation by:
 - (a) enhancing research and innovation (R&I) infrastructure and capacities to develop R&I excellence, and promoting centres of competence, in particular those of European interest;
 - (b) promoting business investment in R&I, developing links and synergies between enterprises, research and development centres and the higher education sector, in particular promoting investment in product and service development, technology transfer, social innovation, eco-innovation, public service applications, demand stimulation, networking, clusters and open innovation through smart specialisation, and supporting technological and applied research, pilot lines, early product validation actions, advanced manufacturing capabilities and first production, in particular in key enabling technologies and diffusion of general purpose technologies;
- (2) enhancing access to, and use and quality of, ICT by:
 - (a) extending broadband deployment and the roll-out of high-speed networks and supporting the adoption of emerging technologies and networks for the digital economy;
 - (b) developing ICT products and services, e-commerce, and enhancing demand for ICT;
 - (c) strengthening ICT applications for e-government, e-learning, e-inclusion, e-culture and e-health;
- (3) enhancing the competitiveness of SMEs by:
 - (a) promoting entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new firms, including through business incubators;
 - (b) developing and implementing new business models for SMEs, in particular with regard to internationalisation;
 - (c) supporting the creation and the extension of advanced capacities for product and service development;
 - (d) supporting the capacity of SMEs to grow in regional, national and international markets, and to engage in innovation processes;
- (4) supporting the shift towards a low-carbon economy in all sectors by:
 - (a) promoting the production and distribution of energy derived from renewable sources;
 - (b) promoting energy efficiency and renewable energy use in enterprises;
 - (c) supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector;
 - (d) developing and implementing smart distribution systems that operate at low and medium voltage levels;
 - (e) promoting low-carbon strategies for all types of territories, in particular for urban areas, including the promotion of sustainable multimodal urban mobility and mitigation-relevant adaptation measures;
 - (f) promoting research and innovation in, and adoption of, low-carbon technologies;
 - (g) promoting the use of high-efficiency co-generation of heat and power based on useful heat demand;
- (5) promoting climate change adaptation, risk prevention and management by:
 - (a) supporting investment for adaptation to climate change, including ecosystem-based approaches;
 - (b) promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems;
- (6) preserving and protecting the environment and promoting resource efficiency by:
 - (a) promoting the production and distribution of energy derived from renewable sources;
 - (b) promoting energy efficiency and renewable energy use in enterprises;
 - (c) supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector;
 - (d) developing and implementing smart distribution systems that operate at low and medium voltage levels;
 - (e) promoting low-carbon strategies for all types of territories, in particular for urban areas, including the promotion of sustainable multimodal urban mobility and mitigation-relevant adaptation measures;
 - (f) promoting research and innovation in, and adoption of, low-carbon technologies;
 - (g) promoting the use of high-efficiency co-generation of heat and power based on useful heat demand;

- (a) investing in the waste sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements;
 - (b) investing in the water sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements;
 - (c) conserving, protecting, promoting and developing natural and cultural heritage;
 - (d) protecting and restoring biodiversity and soil and promoting ecosystem services, including through Natura 2000, and green infrastructure;
 - (e) taking action to improve the urban environment, to revitalise cities, regenerate and decontaminate brownfield sites (including conversion areas), reduce air pollution and promote noise-reduction measures;
 - (f) promoting innovative technologies to improve environmental protection and resource efficiency in the waste sector, water sector and with regard to soil, or to reduce air pollution;
 - (g) supporting industrial transition towards a resource-efficient economy, promoting green growth, eco-innovation and environmental performance management in the public and private sectors;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures by:
- (a) supporting a multimodal Single European Transport Area by investing in the TEN-T;
 - (b) enhancing regional mobility by connecting secondary and tertiary nodes to TEN-T infrastructure, including multimodal nodes;
 - (c) developing and improving environmentally-friendly (including low-noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility;
 - (d) developing and rehabilitating comprehensive, high quality and interoperable railway systems, and promoting noise-reduction measures;
 - (e) improving energy efficiency and security of supply through the development of smart energy distribution, storage and transmission systems and through the integration of distributed generation from renewable sources;
- (8) promoting sustainable and quality employment and supporting labour mobility by:
- (a) supporting the development of business incubators and investment support for self-employment, micro-enterprises and business creation;
 - (b) supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources;
 - (c) supporting local development initiatives and aid for structures providing neighbourhood services to create jobs, where such actions are outside the scope of Regulation (EU) No 1304/2013 of the European Parliament and of the Council ⁽¹⁾;
 - (d) investing in infrastructure for employment services;
- (9) promoting social inclusion, combating poverty and any discrimination, by:
- (a) investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services;
 - (b) providing support for physical, economic and social regeneration of deprived communities in urban and rural areas;
 - (c) providing support for social enterprises;
 - (d) undertaking investment in the context of community-led local development strategies;
- (10) investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure;

⁽¹⁾ Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 (See page 470 of this Official Journal).

(11) enhancing institutional capacity of public authorities and stakeholders and efficient public administration through actions to strengthen the institutional capacity and the efficiency of public administrations and public services related to the implementation of the ERDF, and in support of actions under the ESF to strengthen the institutional capacity and the efficiency of public administration.

Article 6

Indicators for the Investment for growth and jobs goal

1. Common output indicators, as set out in Annex I to this Regulation, programme-specific result indicators and, where relevant, programme-specific output indicators shall be used in accordance with Article 27(4) and point (b)(ii) and (iv) and point (c)(ii) and (iv) of Article 96(2) of Regulation (EU) No 1303/2013.

2. For common and programme-specific output indicators, baselines shall be set at zero. Cumulative quantified target values for those indicators shall be set for 2023.

3. For programme-specific result indicators, which relate to investment priorities, baselines shall use the latest available data and targets shall be set for 2023. Targets may be expressed in quantitative or qualitative terms.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 14 to amend the list of common output indicators set out in Annex I, in order to make adjustments, where justified to ensure effective assessment of progress in the implementation of operational programmes.

CHAPTER II

Specific provisions on the treatment of particular territorial features

Article 7

Sustainable urban development

1. The ERDF shall support, within operational programmes, sustainable urban development through strategies that set out integrated actions to tackle the economic, environmental, climate, demographic and social challenges affecting urban areas, while taking into account the need to promote urban-rural linkages.

2. Sustainable urban development shall be undertaken through Integrated territorial investment as referred to in Article 36 of Regulation (EU) No 1303/2013, or through a specific operational programme, or through a specific priority

axis in accordance with point (c) of the first subparagraph of Article 96(1) of Regulation (EU) No 1303 /2013.

3. Taking into account its specific territorial situation, each Member State shall establish in its Partnership Agreement the principles for the selection of urban areas where integrated actions for sustainable urban development are to be implemented and an indicative allocation for those actions at national level.

4. At least 5 % of the ERDF resources allocated at national level under the Investment for growth and jobs goal shall be allocated to integrated actions for sustainable urban development where cities, sub-regional or local bodies responsible for implementing sustainable urban strategies ("urban authorities") shall be responsible for tasks relating, at least, to the selection of operations in accordance with Article 123(6) of Regulation (EU) No 1303/2013, or, where appropriate, in accordance with Article 123(7) of that Regulation. The indicative amount to be dedicated for the purposes of paragraph 2 of this Article shall be set out in the operational programme or programmes concerned.

5. The managing authority shall determine, in consultation with the urban authority, the scope of tasks, to be undertaken by urban authorities, concerning the management of integrated actions for sustainable urban development. The managing authority shall formally record its decision in writing. The managing authority may retain the right to undertake a final verification of eligibility of operations before approval.

Article 8

Innovative actions in the area of sustainable urban development

1. At the initiative of the Commission, the ERDF may support innovative actions in the area of sustainable urban development in accordance with Article 92(8) of Regulation (EU) No 1303/2013. Such actions shall include studies and pilot projects to identify or test new solutions which address issues that are related to sustainable urban development and are of relevance at Union level. The Commission shall encourage the involvement of relevant partners referred to in Article 5(1) of Regulation (EU) No 1303/2013 in the preparation and implementation of innovative actions.

2. By way of derogation from Article 4 of this Regulation, innovative actions may support all activities necessary to achieve the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013 and the corresponding investment priorities set out in Article 5 of this Regulation.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 14 laying down detailed rules concerning the principles for the selection and management of innovative actions to be supported by the ERDF in accordance with this Regulation.

*Article 9***Urban development network**

1. The Commission shall establish, in accordance with Article 58 of Regulation (EU) No 1303/2013 an urban development network to promote capacity-building, networking and exchange of experience at Union level between urban authorities responsible for implementing sustainable urban development strategies in accordance with Article 7(4) and (5) of this Regulation and authorities responsible for innovative actions in the area of sustainable urban development in accordance with Article 8 of this Regulation.

2. The activities of the urban development network shall be complementary to those undertaken under interregional cooperation pursuant to point (3)(b) of Article 2 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council ⁽¹⁾.

*Article 10***Areas with natural or demographic handicaps**

In operational programmes co-financed by the ERDF, covering areas with severe and permanent natural or demographic handicaps as referred to in point 4 of Article 121 of Regulation (EU) No 1303/2013, particular attention shall be paid to addressing the specific difficulties of those areas.

*Article 11***Northernmost regions with very low population density**

Article 4 shall not apply to the specific additional allocation for the northernmost regions with very low population density. That allocation shall be allocated to the thematic objectives set out in points 1, 2, 3, 4 and 7 of the first paragraph of Article 9 of Regulation (EU) No 1303/2013.

*Article 12***Outermost regions**

1. Article 4 shall not apply to the specific additional allocation for the outermost regions. That allocation shall be used to offset the additional costs, linked to the special characteristics and constraints referred to in Article 349 TFEU, incurred in the outermost regions in supporting:

- (a) the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013;
- (b) freight transport services and start-up aid for transport services;

⁽¹⁾ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (See page 259 of this Official Journal).

(c) operations linked to storage constraints, the excessive size and maintenance of production tools, and the lack of human capital in the local market.

2. The specific additional allocation referred to in paragraph 1 may also be used to help finance operating aid and expenditure covering public service obligations and contracts in the outermost regions.

3. The amount to which the rate of co-financing applies shall be proportionate to the additional costs, referred to in paragraph 1, incurred by the beneficiary, only in the case of operating aid and expenditure covering public service obligations and contracts, but may cover the total eligible costs in the case of expenditure for investment.

4. The specific additional allocation referred to in paragraph 1 of this Article shall not be used to support:

- (a) operations involving products listed in Annex I to the TFEU;
- (b) aid for the transport of persons authorised under point (a) of Article 107(2) TFEU;
- (c) tax exemptions and exemption of social charges.

5. By way of derogation from points (a) and (b) of Article 3(1), the ERDF may support productive investment in enterprises in the outermost regions, irrespective of the size of those enterprises.

6. Article 4 shall not apply to the ERDF part of the envelope allocated to Mayotte as an outermost region within the meaning of Article 349 TFEU, and at least 50 % of that ERDF part shall be allocated to the thematic objectives set out in points 1, 2, 3, 4 and 6 of the first paragraph of Article 9 of Regulation (EU) No 1303 /2013.

*CHAPTER III***Final provisions***Article 13***Transitional provisions**

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation of assistance approved by the Commission on the basis of Regulation (EC) No 1080/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation shall consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. For the purposes of this paragraph assistance shall cover operational programmes and major projects.

2. Applications to receive assistance made or approved under Regulation (EC) No 1080/2006 shall remain valid.

*Article 14***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 6(4) and 8(3) shall be conferred on the Commission from 21 December 2013 until 31 December 2020.
3. The delegation of power referred to in Articles 6(4) and 8(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 6(4) and 8(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry

of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

*Article 15***Repeal**

Without prejudice to Article 13 of this Regulation, Regulation (EC) No 1080/2006 is hereby repealed with effect from 1 January 2014.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex II.

*Article 16***Review**

The European Parliament and the Council shall review this Regulation by 31 December 2020, in accordance with Article 177 TFEU.

*Article 17***Entry into force**

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

Article 12(6) shall apply with effect from 1 January 2014.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
R. ŠADŽIUS

ANNEX I

COMMON OUTPUT INDICATORS FOR ERDF SUPPORT UNDER THE INVESTMENT FOR GROWTH AND JOBS GOAL (ARTICLE 6)

	UNIT	NAME
Productive investment		
	enterprises	Number of enterprises receiving support
	enterprises	Number of enterprises receiving grants
	enterprises	Number of enterprises receiving financial support other than grants
	enterprises	Number of enterprises receiving non-financial support
	enterprises	Number of new enterprises supported
	EUR	Private investment matching public support to enterprises (grants)
	EUR	Private investment matching public support to enterprises (non-grants)
	full time equivalents	Employment increase in supported enterprises
Sustainable tourism	visits/year	Increase in expected number of visits to supported sites of cultural and natural heritage and attractions
ICT Infrastructure	households	Additional households with broadband access of at least 30 Mbps
Transport		
Railway	kilometres	Total length of new railway lines of which: TEN-T
	kilometres	Total length of reconstructed or upgraded railway lines of which: TEN-T
Roads	kilometres	Total length of newly built roads of which: TEN-T
	kilometres	Total length of reconstructed or upgraded roads of which: TEN-T
Urban transport	kilometres	Total length of new or improved tram and metro lines
Inland waterways	kilometres	Total length of new or improved inland waterways
Environment		
Solid waste	tonnes/year	Additional waste recycling capacity
Water supply	persons	Additional population served by improved water supply
Wastewater treatment	population equivalent	Additional population served by improved wastewater treatment
Risk prevention and management	persons	Population benefiting from flood protection measures
	persons	Population benefiting from forest fire protection measures

	UNIT	NAME
Land rehabilitation	hectares	Total surface area of rehabilitated land
Nature and biodiversity	hectares	Surface area of habitats supported in order to attain a better conservation status
Research, Innovation		
	full-time equivalents	Number of new researchers in supported entities
	full-time equivalents	Number of researchers working in improved research infrastructure facilities
	enterprises	Number of enterprises cooperating with research institutions
	EUR	Private investment matching public support in innovation or R&D projects
	enterprises	Number of enterprises supported to introduce new to the market products
	enterprises	Number of enterprises supported to introduce new to the firm products
Energy and Climate change		
Renewables	MW	Additional capacity of renewable energy production
Energy efficiency	households	Number of households with improved energy consumption classification
	kWh/year	Decrease of annual primary energy consumption of public buildings
	users	Number of additional energy users connected to smart grids
GHG reduction	tonnes of CO ₂ eq	Estimated annual decrease of GHG
Social infrastructure		
Childcare & education	persons	Capacity of supported childcare or education infrastructure
Health	persons	Population covered by improved health services
Urban Development specific indicators		
	persons	Population living in areas with integrated urban development strategies
	square metres	Open space created or rehabilitated in urban areas
	square metres	Public or commercial buildings built or renovated in urban areas
	housing units	Rehabilitated housing in urban areas

ANNEX II

CORRELATION TABLE

Regulation (EC) No 1080/2006	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
—	Article 4
Article 4	Article 5
Article 5	Article 5
Article 6	—
Article 7	—
—	Article 6
Article 8	Article 7
—	Article 8
—	Article 9
Article 9	—
Article 10	Article 10
—	Article 11
Article 11	Article 12
Article 12	—
Article 13	—
Article 14	—
Article 15	—
Article 16	—
Article 17	—
Article 18	—
Article 19	—
Article 20	—
Article 21	—
Article 22	Article 13
—	Article 14
Article 23	Article 15
Article 24	Article 16
Article 25	Article 17

Joint statement of the European Parliament and of the Council concerning the application of Article 6 of the ERDF Regulation, Article 15 of the ETC Regulation and Article 4 of the Cohesion Fund Regulation

The European Parliament and the Council note the assurance provided by the Commission to the EU legislature that the common output indicators for the ERDF Regulation, the ETC Regulation and the Cohesion Fund Regulation to be included in an annex to, respectively, each regulation, are the outcome of a lengthy preparatory process involving the evaluation experts of both the Commission and the Member States and, in principle, are expected to remain stable.

**REGULATION (EU) No 1302/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013**

**amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC)
as regards the clarification, simplification and improvement of the establishment and functioning of
such groupings**

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 the third paragraph of Article 175 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In accordance with Regulation (EC) No 1082/2006 of the European Parliament and of the Council ⁽³⁾, the Commission adopted on 29 July 2011 a report for the European Parliament and the Council on the application of that Regulation. In that report, the Commission announced its intention to propose a limited number of modifications to Regulation (EC) No 1082/2006 to facilitate the establishment and operation of EGTCs, as well as to propose clarification of certain existing provisions. Obstacles to establishing new EGTCs should be removed while maintaining continuity in, and facilitating the operation of, existing ones, thus allowing more extensive use of EGTCs to contribute to better policy coherence and cooperation between public bodies without creating an additional burden on national or Union administrations.
- (2) The establishment of an EGTC is a matter to be decided by its members and their national authorities, and is not automatically linked with any legal or financial advantages at Union level.
- (3) The Treaty of Lisbon added a territorial dimension to Cohesion Policy and 'Community' was replaced by 'Union'. The new terminology should therefore be introduced into Regulation (EC) No 1082/2006.

(4) EGTCs can have the potential to enhance the promotion and achievement of the harmonious development of the Union as a whole and the economic, social and territorial cohesion of its regions, in particular, and to contribute to meeting the objectives of the Europe 2020 strategy for smart, sustainable and inclusive growth ('Europe 2020 strategy'). EGTCs can also contribute positively to reducing barriers to territorial cooperation between regions which suffer from severe and permanent natural or demographic handicaps, including the specific situation of outermost regions, and can be instrumental in strengthening the cooperation between third countries, overseas countries and territories ('OCTs') and Union border regions, including through the use of Union external cooperation programmes.

(5) Experience with EGTCs established so far shows that, as a legal instrument, EGTCs are also being used for cooperation in the context of Union policies other than Cohesion Policy, including by implementing programmes or parts of programmes with Union financial support other than that under Cohesion Policy. The efficiency and effectiveness of EGTCs should be enhanced by broadening the nature of EGTCs, removing persistent barriers and facilitating the establishment and operation of EGTCs while maintaining the Member States' ability to limit the actions that EGTCs are able to carry out without Union financial support. Under Regulation (EC) No 1082/2006 EGTCs have in each Member State the most extensive legal capacity accorded to legal persons under that Member State's national law, including the possibility of concluding agreements with other EGTCs, or other legal entities, for the purposes of carrying out joint cooperation projects to, inter alia, provide for more efficient operation of macro-regional strategies.

(6) By definition, EGTCs operate in more than one Member State. Consequently, Regulation (EC) No 1082/2006 provides for the possibility for the EGTC's convention and statutes to state the applicable law on certain issues. The cases in which such statements are to give priority, within the hierarchy of applicable law laid down in that Regulation, to the national law of the Member State where the EGTC has its registered office should be clarified. At the same time, the provisions of Regulation (EC) No 1082/2006 on applicable law should be extended to the acts and activities of an EGTC that are subject to legal scrutiny by Member States in each individual case.

⁽¹⁾ OJ C 191, 29.6.2012, p. 53.

⁽²⁾ OJ C 113, 18.4.2012, p. 22.

⁽³⁾ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

(7) As a result of the differing status of local and regional bodies in Member States, competences that are regional on one side of a border can be national on the other,

especially in smaller or centralised Member States. Consequently, national authorities should be able to become members of an EGTC alongside the Member State.

- (8) While Regulation (EC) No 1082/2006 allows for bodies established under private law to become members of an EGTC provided that they are considered as being bodies governed by public law as defined in Directive 2004/18/EC of the European Parliament and of the Council ⁽¹⁾, it should be possible to use EGTCs in the future to jointly manage public services with a particular focus on services of general economic interest or on infrastructure. Other private or public law actors should also be able, therefore, to become members of an EGTC. Consequently, 'public undertakings' as defined in Directive 2004/17/EC of the European Parliament and of the Council ⁽²⁾, and undertakings entrusted with the operation of services of general economic interest, in fields such as education and training, medical care, social needs in relation to health care and longterm care, childcare, access to, and reintegration into, the labour market, social housing and the care and social inclusion of vulnerable groups, should be covered as well.
- (9) Regulation (EC) No 1082/2006 does not contain detailed rules concerning the participation of entities from third countries in an EGTC formed in accordance with that Regulation, i.e. between members from at least two Member States. Given the further alignment of the rules governing the cooperation between one or more Member States and one or more third countries, predominantly in the context of cross-border cooperation under the European Neighbourhood Instrument (ENI) and the Instrument for Pre-accession Assistance (IPA II), but also in the context of complementary financing from the European Development Fund, and of transnational cooperation under the European territorial cooperation goal, where allocations from the ENI and the IPA II are to be transferred in order to pool such allocations with allocations from the European Regional Development Fund (ERDF) under joint cooperation programmes, the participation of members from third countries neighbouring a Member State, including its outermost regions, in EGTCs established between at least two Member States should be explicitly provided for. This should be possible where the legislation of a third country, or agreements between at least one participating Member State and a third country, so allows.

- (10) In order to strengthen the Union's economic, social and territorial cohesion and therefore to reinforce, in particular, the effectiveness of territorial cooperation, including one or more of the cross-border, transnational and interregional strands of cooperation, between members of an EGTC, the participation of third countries neighbouring a Member State, including its outermost regions, should be allowed in an EGTC. Operations under European territorial cooperation programmes, where co-financed by the Union, should therefore continue to pursue Union Cohesion Policy objectives, even if they are implemented, partly or in their entirety, outside the territory of the Union, and, as a consequence, the activities of an EGTC are also carried out at least to some extent outside the territory of the Union. In this context, and where relevant, the contribution by the activities of an EGTC that also has members from third countries neighbouring at least one Member State, including its outermost regions, to the objectives of Union external action policies, such as development cooperation or economic, financial and technical cooperation objectives, remains merely incidental, as the centre of gravity of the cooperation programmes concerned and consequently the activities of that EGTC should focus primarily on Union Cohesion Policy objectives. Consequently any development cooperation or economic, financial and technical cooperation objectives between only one Member State, including its outermost regions, and one or more third countries are only ancillary to the cohesion policy-based territorial cooperation objectives between Member States, including their outermost regions. Therefore, the third paragraph of Article 175 of the Treaty on the Functioning of the European Union (TFEU) is a sufficient legal basis for the adoption of this Regulation.

- (11) Following the authorisation for participation of national, regional, sub-regional and local authorities and organisations, as well as, where appropriate, other public bodies or institutions, including public service providers, from an OCT in an EGTC, based on Council Decision 2013/755/EU ⁽³⁾ and taking into account that, in the case of the 2014-2020 programming period, a special additional financial allocation under the multiannual financial framework is to reinforce the cooperation of the outermost regions of the Union with neighbouring third countries and some of the OCTs listed in Annex II to the TFEU and neighbouring those outermost regions, EGTCs, as a legal instrument, should also be opened up to members from OCTs. For the sake of legal certainty and transparency special approval procedures for the accession of members from an OCT to an EGTC should be established including in this regard, where necessary, special rules on the law applicable to the relevant EGTC with members from an OCT.

⁽¹⁾ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

⁽²⁾ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.4.2004, p. 1).

⁽³⁾ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the Union ('Overseas Association Decision') (OJ L 344 19.12.2013, p. 1).

- (12) Regulation (EC) No 1082/2006 distinguishes between the convention laying down the constitutive elements of the future EGTC and the statutes setting out the implementation elements. However, under that Regulation the statutes currently have to contain all the provisions of the convention. Although both the convention and the statutes are to be sent to Member States, they are distinct documents, and the approval procedure should be limited to the convention. In addition, some elements presently covered by the statutes should be covered by the convention instead.
- (13) Experience gained from establishing EGTCs shows that the three-month period for the Member States' approval procedure has rarely been respected. That period should therefore be extended to six months. On the other hand, in order to ensure legal certainty after that period, the convention should be deemed to be approved by tacit agreement, where applicable, in accordance with the national law of the Member States concerned, including their respective constitutional requirements. However, the Member State where the proposed registered office of the EGTC is to be located should have to formally approve the convention. While Member States should be able to apply national rules on the procedure for approval of a prospective member's participation in the EGTC or to create specific rules in the framework of the national rules implementing Regulation (EC) No 1082/2006, derogations to the provision concerning tacit agreement after the six-month period should be precluded, except as provided for in this Regulation.
- (14) The grounds for a Member State not approving a prospective member's participation or the convention should be set out. However, any national law requiring other rules and procedures than those provided for in Regulation (EC) No 1082/2006 should not be taken into account when deciding on that approval.
- (15) As Regulation (EC) No 1082/2006 cannot apply in third countries, the Member State where the proposed registered office of the EGTC is to be located should, when approving the participation of prospective members from third countries, established under the law of those third countries, satisfy itself, in consultation with those Member States under whose laws other prospective members of the EGTC have been established, that the third countries have applied equivalent conditions and procedures to those laid down in Regulation (EC) No 1082/2006 or acted in accordance with international bilateral or multilateral agreements concluded between Member States of the Council of Europe, whether or not they are also Member States of the Union, based on the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, signed in Madrid on 21 May 1980, and the additional Protocols adopted pursuant thereto. In the case of the involvement of several Member States of the Union and one or more third countries, it should be sufficient that such an agreement has been concluded between the respective third country and one participating Member State of the Union.
- (16) In order to encourage the accession of new members to an existing EGTC, the procedure to amend conventions in such cases should be simplified. Consequently, such amendments should, in the case of a new member from a Member State that has already approved the convention, not be notified to all participating Member States, but only to the Member State under whose laws the new prospective member is established and the Member State where the EGTC has its registered office. Any subsequent amendment of the convention should be notified to all Member States concerned. However, such simplification of the amending procedure should not apply in the case of a new prospective member from a Member State that has not already approved the convention, a third country, or an OCT, because it is necessary to enable all participating Member States to check whether such accession is in line with its public interest or public policy.
- (17) Given the links between Member States and OCTs, the procedures for approval of participation of prospective members from OCTs should involve those Member States. In accordance with the specific governance relationship between the Member State and the OCT, the Member State should either approve the participation of the prospective member from the OCT or provide written confirmation to the Member State, where the proposed registered office of the EGTC is to be located, that the competent authorities in the OCT have approved the prospective member's participation in accordance with equivalent conditions and procedures to those laid down in Regulation (EC) No 1082/2006. The same procedure should apply in the case of a prospective member from an OCT that wishes to join an existing EGTC.
- (18) As the statutes are no longer to contain all the provisions of the convention, both the convention and statutes should be registered or published, or both. In addition, for reasons of transparency, a notice concerning the decision establishing an EGTC should be published in the C series of the *Official Journal of the European Union*. In the interests of consistency, that notice should contain the details set out in the Annex to Regulation (EC) No 1082/2006 as amended by this Regulation.
- (19) The purpose of an EGTC should be extended to cover the facilitation and promotion of territorial cooperation in general, including strategic planning and the management of regional and local concerns in line with Cohesion Policy and other Union policies, thus contributing to the Europe 2020 strategy or to the implementation of macro-regional strategies. An EGTC should therefore be able to implement operations with financial support other than that provided by Union Cohesion Policy. In addition, every member in each of the Member States or third countries represented should be required to have each competence needed for the efficient functioning of an EGTC unless the Member State or third country approves the participation of

- a member established under its national law even where that member is not competent for all the tasks specified in the convention.
- (20) As a legal instrument, EGTCs are not intended to circumvent the framework provided by the Council of Europe *acquis* offering different opportunities and frameworks within which regional and local authorities can cooperate across borders including the recent Euroregional Co-operation Groupings ⁽¹⁾, or to provide a set of specific common rules which would uniformly govern all such arrangements throughout the Union.
- (21) Both the specific tasks of an EGTC and the possibility for Member States to limit the actions that EGTCs can carry out without financial support from the Union should be aligned with the provisions governing the ERDF, the European Social Fund and the Cohesion Fund during the 2014-2020 programming period.
- (22) While it is laid down in Regulation (EC) No 1082/2006 that the tasks of an EGTC do not concern, among others, 'regulatory powers', which can have different legal consequences in different Member States, nevertheless an EGTC's assembly should be able to define, if the convention specifically so provides, and, in compliance with Union and national law, the terms and conditions of the use of an item of infrastructure the EGTC is managing, or the terms and conditions subject to which a service of general economic interest can be provided, including the tariffs and fees to be paid by the users.
- (23) As a consequence of the opening up of EGTCs to members from third countries or OCTs, the convention should specify the arrangements for their involvement.
- (24) The convention should, in addition to including a reference to the applicable law in general as laid down in Article 2 of Regulation (EC) No 1082/2006, also list the Union and national law applicable to the EGTC. In addition, it should be possible for that national law to be the law of the Member State where the organs of the EGTC exercise their powers, in particular in the case of staff that work under the responsibility of the director and are located in a Member State other than the Member State where the EGTCs has its registered office. The convention should also list the applicable Union and national law directly relevant to the EGTC's activities carried out under the tasks specified in the convention, including where the EGTC is managing public services of general interest or infrastructure.
- (25) This Regulation should not cover problems linked to cross-border procurement encountered by EGTCs.
- (26) Given the importance of the rules applicable to staff of EGTCs and of the principles governing the arrangements concerning personnel management and recruitment procedures, the convention, not the statutes, should specify those rules and principles. It should be possible for different options as to the choice of rules applicable to staff of EGTCs to be laid down in the convention. The specific arrangements concerning personnel management and recruitment procedures should be addressed in the statutes.
- (27) Member States should further make use of the possibilities provided for under Regulation (EC) No 883/2004 of the European Parliament and of the Council ⁽²⁾ to allow by common agreement for exceptions with regard to the determination of the legislation applicable under that Regulation, in the interests of certain persons or categories of persons, and to consider the staff of EGTCs as being such a category of persons.
- (28) Given the importance of the arrangements relating to members' liability, the convention, not the statutes, should specify those arrangements.
- (29) Where an EGTC has as its exclusive objective the management of a cooperation programme, or part thereof, supported by the ERDF, or where an EGTC concerns interregional cooperation or networks, information concerning the territory in which the EGTC is able to execute its task should not be required. In the former case, the extent of the territory should be defined and, where appropriate, changed in the relevant cooperation programme. In the latter case, while primarily concerning immaterial activities, the requirement for such information would jeopardise the accession of new members to interregional cooperation or networks.
- (30) The different arrangements relating to the control of management of public funds on the one hand and of the audit of the EGTC's accounts on the other hand should be clarified.
- (31) EGTCs whose members have limited liability should be more clearly distinguished from those whose members have unlimited liability. In addition, in order to enable EGTCs whose members have limited liability to implement activities which could potentially generate debts, Member States should be allowed to require that such EGTCs take out appropriate insurance or that such EGTCs be subject to an appropriate financial guarantee to cover the risks specific to the activities thereof.

⁽¹⁾ Protocol No. 3 to the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs), opened for signature on 16 November 2009.

⁽²⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

(32) Member States should submit to the Commission any provisions, as well as any amendments thereto, adopted to implement Regulation (EC) No 1082/2006. In order to improve the exchange of information and coordination between the Member States, the Commission and the Committee of the Regions, the Commission should transmit such provisions to the Member States and to the Committee of the Regions. The Committee of the Regions has set up an EGTC platform enabling all stakeholders to exchange their experiences and good practices and to improve communication on EGTC opportunities and challenges by facilitating the exchange of experience on the establishment of EGTCs at territorial level and sharing knowledge of best practices with regard to territorial cooperation.

(33) A new deadline for the report on the application of Regulation (EC) No 1082/2006 should be fixed. In accordance with the Commission's move towards more evidence-based policy-making, that report should address the main evaluation questions including effectiveness, efficiency, relevance, European added value, scope for simplification and sustainability. Effectiveness should be understood as relating, inter alia, to the nature of the attempts inside the different Commission services and between the Commission and other bodies such as the European External Action Service to disseminate knowledge about the EGTC instrument. The Commission should forward that report to the European Parliament, the Council and, pursuant to the first paragraph of Article 307 TFEU, to the Committee of the Regions. That report should be forwarded by 1 August 2018.

(34) In order to lay down a list of indicators for use in the evaluation and preparation of the report on the application of Regulation (EC) No 1082/2006, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(35) Existing EGTCs should not be obliged to align their convention and statutes to amendments to Regulation (EC) No 1082/2006 introduced by this Regulation.

(36) It is necessary to specify under which set of rules an EGTC, for which an approval procedure was started before the date of application of this Regulation, should be approved.

(37) In order to adapt existing national rules to implement this Regulation before programmes under the European territorial cooperation goal have to be submitted to the

Commission, this Regulation should start to apply six months after the date of its entry into force. When adapting their existing national rules Member States should ensure that competent authorities responsible for approval of EGTCs are designated and that, in accordance with their legal and administrative arrangements, those authorities should be the same bodies responsible for receipt of notifications in accordance with Article 4 of Regulation (EC) No 1082/2006.

(38) Since the objective of this Regulation, namely the improvement of the EGTC legal instrument, cannot be sufficiently achieved by the Member States but can rather 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, recourse to an EGTC being optional, in accordance with the constitutional system of each Member State.

(39) Regulation (EC) No 1082/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1082/2006

Regulation (EC) No 1082/2006 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

'1. A European grouping of territorial cooperation ("EGTC") may be established on Union territory under the conditions and subject to the arrangements provided for by this Regulation.

2. The objective of an EGTC shall be to facilitate and promote, in particular, territorial cooperation, including one or more of the cross-border, transnational and interregional strands of cooperation, between its members as set out in Article 3(1), with the aim of strengthening Union economic, social and territorial cohesion.'

(b) the following paragraph is added:

'5. The registered office of an EGTC shall be located in a Member State under whose law at least one of the EGTC's members is established.'

(2) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The acts of the organs of an EGTC shall be governed by the following:

- (a) this Regulation;
- (b) the convention referred to in Article 8, where it is expressly authorised under this Regulation to do so; and
- (c) in the case of matters not, or only partly, regulated under this Regulation, the national law of the Member State where the EGTC has its registered office.

Where it is necessary to determine the applicable law under Union law or private international law, an EGTC shall be considered to be an entity of the Member State where it has its registered office.;

(b) the following paragraph is inserted:

'1a. The activities of an EGTC relating to carrying out tasks, referred to in Article 7(2) and (3), inside the Union shall be governed by applicable Union law and national law as specified in the convention referred to in Article 8.

The activities of an EGTC that are co-financed from the Union budget shall comply with the requirements set out in applicable Union law and the national law relating to the application of that Union law.;

(3) Article 3 is amended as follows:

(a) the first subparagraph of paragraph 1 is replaced by the following:

'1. The following entities may become members of an EGTC:

- (a) Member States or authorities at national level;
- (b) regional authorities;
- (c) local authorities;
- (d) public undertakings within the meaning of point (b) of Article 2(1) of Directive 2004/17/EC of the European Parliament and of the Council (*) or bodies governed by public law within the meaning of the second subparagraph of Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council (**);
- (e) undertakings entrusted with operations of services of general economic interest in compliance with applicable Union and national law;

(f) national, regional or local authorities, or bodies or public undertakings, equivalent to those referred to under point (d), from third countries, subject to the conditions laid down in Article 3a.

(*) Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.4.2004, p. 1).

(**) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).;

(b) paragraph 2 is replaced by the following:

'2. An EGTC shall be made up of members located on the territory of at least two Member States, except as provided for in Article 3a(2) and (5).;

(4) the following Article is inserted:

'Article 3a

Accession of members from third countries or overseas countries or territories (OCTs)

1. In accordance with Article 4(3a), an EGTC may be made up of members located on the territory of at least two Member States and of one or more third countries neighbouring at least one of those Member States, including its outermost regions, where those Member States and third countries jointly carry out territorial cooperation actions or implement programmes supported by the Union.

For the purposes of this Regulation, a third country or an OCT shall be considered to be neighbouring a Member State, including its outermost regions, where the third country or the OCT and that Member State share a common land border or where both the third country or OCT and the Member State are eligible under a joint maritime cross-border or transnational programme under the European territorial cooperation goal, or are eligible under another cross-border, sea-crossing or sea-basin cooperation programme, including where they are separated by international waters.

2. An EGTC may be made up of members located on the territory of only one Member State and of one or more third countries neighbouring that Member State, including its outermost regions, where the Member State concerned considers that EGTC to be consistent with the scope of its territorial cooperation in the context of cross-border or transnational cooperation or bilateral relations with the third countries concerned.

3. For the purposes of paragraphs 1 and 2, third countries neighbouring a Member State, including its outermost regions, include maritime borders between the countries concerned.

4. In accordance with Article 4a and subject to the conditions set out in paragraph 1 of this Article, an EGTC may also be made up of members located on the territory of at least two Member States, including its outermost regions, and of one or more OCTs, with or without members from one or more third countries.

5. In accordance with Article 4a and subject to the conditions set out in paragraph 2 of this Article, an EGTC may also be made up of members located on the territory of only one Member State, including its outermost regions, and of one or more OCTs, with or without members from one or more third countries.

6. An EGTC shall not be set up only between members from a Member State and one or more OCTs linked to that same Member State.;

(5) Article 4 is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. Following notification under paragraph 2 by a prospective member, the Member State which has received that notification shall, taking into account its constitutional structure, approve the prospective member's participation in the EGTC and the convention, unless that Member State considers that:

(a) such participation or the convention is not in conformity with any of the following:

(i) this Regulation;

(ii) other Union law concerning the acts and activities of the EGTC;

(iii) national law relating to the powers and competences of the prospective member;

(b) such participation is not justified for reasons of public interest or of public policy of that Member State; or

(c) the statutes are inconsistent with the convention.

In the event of non-approval, the Member State shall state its reasons for withholding approval and shall, where appropriate, suggest the necessary amendments to the convention.

The Member State shall reach its decision, with regard to approval, within a period of six months from the date of receipt of a notification in accordance with paragraph 2. If the Member State which has received the notification, does not raise an objection within that period, the participation of the prospective member and the convention shall be deemed to be approved. However, the Member State where the proposed registered office of the EGTC is to be located shall formally approve the convention in order to allow the EGTC to be established.

Any request for additional information from the Member State to a prospective member shall interrupt the deadline referred to in the third subparagraph. The period of interruption shall start from the day following the date on which the Member State has sent its observations to the prospective member and shall last until the prospective member has responded to the observations.

However, an interruption of the deadline referred to in the third subparagraph shall not occur if the prospective member submits a reply to the observations by the Member State within ten working days of the start of the period of interruption.

In deciding on a prospective member's participation in an EGTC, Member States may apply their national rules.;

(b) the following paragraph is inserted:

'3a. In the case of an EGTC with prospective members from one or more third countries the Member State where the proposed registered office of the EGTC is to be located shall, in consultation with the other Member States concerned, satisfy itself that the conditions laid down in Article 3a are fulfilled and that each third country has approved the prospective members' participation in accordance with either:

(a) equivalent conditions and procedures to those laid down in this Regulation; or

(b) an agreement concluded between at least one Member State under whose law a prospective member is established and that third country.;

(c) paragraphs 5 and 6 are replaced by the following:

'5. The members shall agree on the convention referred to in Article 8 while ensuring consistency with the approval in accordance with paragraph 3 of this Article.

6. Any amendment to the convention or to the statutes shall be notified by the EGTC to the Member States under whose law the EGTC's members are established. Any amendment to the convention, except solely in the event of accession of

a new member under point (a) of paragraph 6a, shall be approved by those Member States in accordance with the procedure set out in this Article.;

(d) the following paragraph is added:

'6a. The following provisions shall apply in the event of accession of new members to an existing EGTC:

- (a) in the event of accession of a new member from a Member State that has already approved the convention, such accession shall be approved only by the Member State under whose laws the new member is established in accordance with the procedure set out in paragraph 3 and notified to the Member State where the EGTC has its registered office;
- (b) in the event of accession of a new member from a Member State that has not already approved the convention, the procedure set out in paragraph 6 shall apply;
- (c) in the event of accession of a new member from a third country to an existing EGTC, such accession shall be subject to examination by the Member State where the EGTC has its registered office in accordance with the procedure set out in paragraph 3a.;

(6) the following Article is inserted:

'Article 4a

Participation of members from an OCT

In the case of an EGTC with a prospective member from an OCT, the Member State to which the OCT is linked shall satisfy itself that the conditions of Article 3a are fulfilled and, taking into account its relationship with the OCT, either:

- (a) approve the prospective member's participation in accordance with Article 4(3); or
- (b) confirm in writing to the Member State where the proposed registered office of the EGTC is to be located that the competent authorities in the OCT have approved the prospective member's participation in accordance with equivalent conditions and procedures to those laid down in this Regulation.;

(7) Article 5 is replaced by the following:

'Article 5

Acquisition of legal personality and publication in the Official Journal

1. The convention and the statutes and any subsequent amendments thereto shall be registered or published, or

both, in the Member State where the EGTC concerned has its registered office, in accordance with the applicable national law of that Member State. The EGTC shall acquire legal personality on the date of registration or publication of the convention and the statutes, whichever occurs first. The members shall inform the Member States concerned and the Committee of the Regions of the registration or publication of the convention and the statutes.

2. The EGTC shall ensure that, within ten working days of the registration or publication of the convention and the statutes, a request is sent to the Committee of the Regions following the template set out in the Annex to this Regulation. The Committee of the Regions shall then transfer that request to the Publications Office of the European Union for publication of a notice, in the C series of the *Official Journal of the European Union*, announcing the establishment of the EGTC, along with the details set out in the Annex to this Regulation.;

(8) In Article 6, paragraph 4 is replaced by the following:

'4. Notwithstanding paragraphs 1, 2 and 3 of this Article, where the tasks of an EGTC as referred to in Article 7(3) cover actions which are co-financed by the Union, the relevant legislation concerning the control of funds provided by the Union shall apply.;

(9) Article 7 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

'2. An EGTC shall act within the confines of the tasks given to it, namely the facilitation and promotion of territorial cooperation to strengthen Union economic, social and territorial cohesion, and the overcoming of internal market barriers. Each task shall be determined by its members as falling within the competence of every member, unless the Member State or third country approves the participation of a member established under its national law even where that member is not competent for all the tasks specified in the convention.

3. An EGTC may carry out specific actions of territorial cooperation between its members in pursuit of the objective referred to in Article 1(2), with or without financial support from the Union.

Primarily, the tasks of an EGTC may concern the implementation of cooperation programmes, or parts thereof, or the implementation of operations supported by the Union through the European Regional Development Fund, the European Social Fund and/or the Cohesion Fund.

Member States may limit the tasks that EGTCs may carry out without financial support from the Union. However, without prejudice to Article 13, Member States shall not exclude tasks concerning the investment priorities referred to in Article 7 of Regulation (EU) No 1299/2013 (*) of the European Parliament and of the Council.

(*) Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).';

(b) in paragraph 4, the following subparagraph is added:

'However, in compliance with applicable Union and national law, the assembly of an EGTC, referred to in point (a) of Article 10(1), may define the terms and conditions of the use of an item of infrastructure the EGTC is managing, or the terms and conditions subject to which a service of general economic interest is provided, including the tariffs and fees to be paid by the users.';

(10) in Article 8, paragraph 2 is replaced by the following:

'2. The convention shall specify:

- (a) the name of the EGTC and its registered office;
- (b) the extent of the territory in which the EGTC may execute its tasks;
- (c) the objective and the tasks of the EGTC;
- (d) the duration of the EGTC and the conditions for its dissolution;
- (e) the list of the EGTC's members;
- (f) the list of the EGTC's organs and their respective competences;
- (g) the applicable Union law and national law of the Member State where the EGTC has its registered office for the purposes of the interpretation and enforcement of the convention;
- (h) the applicable Union law and national law of the Member State where the EGTC's organs act;
- (i) the arrangements for the involvement of members from third countries or from OCTs if appropriate including the identification of applicable law where the EGTC carries out tasks in third countries or in OCTs;

- (j) the applicable Union and national law directly relevant to the EGTC's activities carried out under the tasks specified in the convention;
- (k) the rules applicable to the EGTC's staff, as well as the principles governing the arrangements concerning personnel management and recruitment procedures;
- (l) the arrangements for liability of the EGTC and its members in accordance with Article 12;
- (m) the appropriate arrangements for mutual recognition, including for financial control of the management of public funds; and
- (n) the procedures for adoption of the statutes and amendment of the convention, which shall comply with the obligations set out in Articles 4 and 5.

3. Where the tasks of an EGTC concern only the management of a cooperation programme, or part thereof, under Regulation (EU) No 1299/2013, or where an EGTC concerns interregional cooperation or networks, information under point (b) of paragraph 2 shall not be required.';

(11) Article 9 is replaced by the following:

'Article 9

Statutes

1. The statutes of an EGTC shall be adopted on the basis of, and in accordance with, its convention, by its members acting unanimously.
2. The statutes of an EGTC shall specify, as a minimum, the following:
 - (a) the operating provisions of its organs and those organs' competences, as well as the number of representatives of the members in the relevant organs;
 - (b) its decision-making procedures;
 - (c) its working language or languages;
 - (d) the arrangements for its functioning;
 - (e) its procedures concerning personnel management and recruitment;
 - (f) the arrangements for its members' financial contributions;
 - (g) the applicable accounting and budgetary rules for its members;
 - (h) the designation of the independent external auditor of its accounts; and

- (i) the procedures for amending its statutes, which shall comply with the obligations set out in Articles 4 and 5.;

(12) in Article 11, paragraph 2 is replaced by the following:

'2. The preparation of its accounts including, where required, the accompanying annual report, and the auditing and publication of those accounts, shall be governed by the national law of the Member State where the EGTC has its registered office.;

(13) Article 12 is amended as follows:

- (a) in paragraph 1 the following subparagraph is added:

'An EGTC shall be liable for all its debts.;

- (b) paragraph 2 is replaced by the following:

'2. Without prejudice to paragraph 3, to the extent that the assets of an EGTC are insufficient to meet its liabilities, its members shall be liable for its debts irrespective of the nature of those debts, each member's share being fixed in proportion to its financial contribution. The arrangements for financial contributions shall be fixed in the statutes.

The EGTC's members may provide in the statutes that they are to be liable, after they have ceased to be members of an EGTC, for obligations arising out of activities of the EGTC during their membership.

2a. If the liability of at least one member of an EGTC from a Member State is limited as a result of the national law under which it is established, the other members may also limit their liability in the convention where national law implementing this Regulation enables them to do so.

The name of an EGTC whose members have limited liability shall include the word 'limited'.

The requirements for the publication of the convention, statutes and accounts of an EGTC whose members have limited liability shall be at least equal to those required for other legal entities with limited liability under the laws of the Member State where that EGTC has its registered office.

In the case of an EGTC whose members have limited liability, any Member State concerned may require that the EGTC take out appropriate insurance or that it be subject to a guarantee provided by a bank or other financial institution established in a Member State or

that it be covered by a facility provided as a guarantee by a public entity or by a Member State to cover the risks specific to the activities of the EGTC.;

(14) in Article 15(2), the first subparagraph is replaced by the following:

'2. Except where otherwise provided for in this Regulation, Union law on jurisdiction shall apply to disputes involving an EGTC. In any case which is not provided for in such Union law, the competent courts for the resolution of disputes shall be the courts of the Member State where the EGTC has its registered office.;

(15) Article 16 is amended as follows:

- (a) paragraph 1 is replaced by the following:

'1. Member States shall adopt provisions to ensure the effective application of this Regulation, including with regard to the determination of the competent authorities responsible for the approval procedure, in accordance with their legal and administrative arrangements.

Where required under the terms of a Member State's national law, that Member State may establish a comprehensive list of the tasks which the members of an EGTC within the meaning of Article 3(1) established under its laws already have, as far as territorial cooperation within that Member State is concerned.

The Member State shall submit to the Commission any provisions adopted under this Article, as well as any amendments thereof. The Commission shall transmit those provisions to the other Member States and the Committee of the Regions.;

- (b) the following paragraph is inserted:

'1a. The provisions referred to in paragraph 1 insofar as they concern a Member State to which an OCT is linked shall, taking into account the relationship of the Member State with that OCT, also ensure the effective application of this Regulation with regard to that OCT, neighbouring other Member States or outermost regions of those Member States.;

(16) Article 17 is replaced by the following:

'Article 17

Report

By 1 August 2018 the Commission shall forward to the European Parliament, the Council and the Committee of the Regions a report on the application of this Regulation, evaluating, based on indicators, its effectiveness, efficiency, relevance, European added value and scope for simplification.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 17a, laying down the list of indicators referred to in the first paragraph.;

(17) the following Article is inserted:

'Article 17a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in the second paragraph of Article 17 shall be conferred on the Commission for a period of five years from 21 December 2013.

3. The delegation of power referred to in the second paragraph of Article 17 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to the second paragraph of Article 17 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.'

Article 2

Transitional provisions

1. EGTCs established before 21 December 2013 shall not be obliged to align their convention and statutes with the provisions of Regulation (EC) No 1082/2006 as amended by this Regulation.

2. In the case of EGTCs, for which a procedure under Article 4 of Regulation (EC) No 1082/2006 was started before 22 June 2014 and for which only the registration or publication under Article 5 of Regulation (EC) No 1082/2006 is outstanding, the convention and the statutes shall be registered or published, or both, in accordance with the provisions of Regulation (EC) No 1082/2006 before its amendment by this Regulation.

3. EGTCs for which a procedure under Article 4 of Regulation (EC) No 1082/2006 was started more than six months before 22 June 2014 shall be approved in accordance with the provisions of Regulation (EC) No 1082/2006 before its amendment by this Regulation.

4. EGTCs other than those under paragraphs 2 and 3 of this Article for which a procedure under Article 4 of Regulation (EC) No 1082/2006 was started before 22 June 2014 shall be approved in accordance with the provisions of Regulation (EC) No 1082/2006 as amended by this Regulation.

5. Member States shall submit to the Commission the necessary amendments to the national provisions adopted in accordance with Article 16(1) of Regulation (EC) No 1082/2006 as amended by this Regulation no later than 22 June 2014

Article 3

Entry into force

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

It shall apply from 22 June 2014.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
R. ŠADŽIUS

III. ADDITIONAL DETAILS ON NAME OF THE GROUPING (if applicable)

Name in (please, indicate an appropriate language version)

BG	ES	CS	DA	DE	ET	EL	EN	FR	GA	HR	IT	LV
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LT	HU	MT	NL	PL	PT	RO	SK	SL	FI	SV	Other: _____	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Full name (if applicable): _____

Abbreviated name (if applicable): _____

----- Section III is to be used as many times as needed -----

IV. MEMBERS*

IV. 1) Total number of members in the Grouping*:

IV. 2) Member information*

Official name*:		
Postal address:		
Town:	Postal code:	Country*:
Contact point(s):	Telephone:	
For the attention of:		
E-mail:	Fax:	
Internet address(es) (if applicable)		

Joint statement of the European Parliament, the Council and the Commission relating to awareness raising and Article 4 and 4a of the EGTC Regulation

The European Parliament, the Council and the Commission agree to undertake better coordinated efforts for awareness raising among and inside the institutions and Member States in order to improve the visibility of the possibilities to use EGTCs as an optional instrument available for territorial cooperation in all EU policy areas.

In this context, the European Parliament, the Council and the Commission invite Member States in particular to undertake appropriate actions of coordination and communication among national authorities and between authorities of different Member States in order to ensure clear, efficient and transparent procedures of authorisation of new EGTCs within the time limits fixed.

**Joint statement of the European Parliament, the Council and the Commission relating to Article 1(9)
of the EGTC regulation**

The European Parliament, the Council and the Commission agree that when applying Article 9(2)(i) of Regulation (EU) No 1082/2006 as amended, the Member States will endeavour, when assessing the rules to be applicable to the EGTC staff members as proposed in the draft convention, to consider the different available employment regime options to be chosen by the EGTC, be it under private or public law.

Where employment contracts for EGTC staff members are governed by private law, Member States will also take into account relevant EU law, such as Regulation (EC) No 593/2008 of the EP and the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), as well as the related legal practice of the other Member States represented in the EGTC.

The European Parliament, the Council and the Commission further understand that where employment contracts for EGTC staff members are governed by public law, national public law rules will be those of the Member State where the respective EGTC organ is located. However, national public law rules of the Member State where the EGTC is registered may apply as regards EGTC staff members already subject to these rules prior to becoming an EGTC staff member.

Joint statement of the European Parliament, the Council and the Commission relating to the role of the Committee of the Regions in the framework of the EGTC platform

The European Parliament, the Council and the Commission take note of the valuable work carried out by the Committee of the Regions in the framework of the EGTC Platform overseen by it and encourage the Committee of the Regions to further track the activities of existing EGTCs and those in the process of being set up, organise an exchange of best practice and identify common issues.

**REGULATION (EU) No 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013**

laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006

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 177 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 opinions of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinions of the Committee of the Regions ⁽²⁾,

Having regard to the opinions of the Court of Auditors ⁽³⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Article 174 of the Treaty on the Functioning of the European Union (TFEU) provides that, in order to strengthen its economic, social and territorial cohesion, the Union is to aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, and that particular attention is to be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps. Article 175 TFEU requires that the Union is to support the achievement of these objectives by the action it takes through the European Agricultural Guidance and Guarantee Fund, Guidance Section, the European Social Fund, the European Regional Development Fund, the European Investment Bank and other instruments.

(2) In order to improve coordination and harmonise implementation of the Funds providing support under

cohesion policy, namely the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund, with the Fund for rural development, namely the European Agricultural Fund for Rural Development (EAFRD), and for the maritime and fisheries sector, namely measures financed under shared management in the European Maritime and Fisheries Fund (EMFF), common provisions should be established for all these Funds (the 'European Structural and Investment Funds' - 'ESI Funds'). In addition this Regulation contains general provisions which apply to the ERDF, the ESF and the Cohesion Fund, but do not apply to the EAFRD and the EMFF as well as general provisions applicable to the ERDF, the ESF, the Cohesion Fund and the EMFF, but do not apply to the EAFRD. Due to the particularities that exist for each ESI Fund, specific rules applicable to each ESI Fund and to the European territorial cooperation goal under the ERDF should be specified in separate Regulations.

(3) In line with the conclusions of the European Council of 17 June 2010, whereby the Union strategy for smart, sustainable and inclusive growth was adopted, the Union and Member States should implement the delivery of smart, sustainable and inclusive growth, while promoting harmonious development of the Union and reducing regional disparities. The ESI Funds should play a significant role in the achievement of the objectives of the Union strategy for smart, sustainable and inclusive growth.

(4) As regards the Common Agricultural Policy (CAP), significant synergies have already been obtained by harmonising and aligning management and control rules for the first pillar (European Agricultural Guarantee Fund - EAGF) and the second pillar (EAFRD) of the CAP. The strong link between the EAGF and the EAFRD should therefore be maintained and the structures already in place in the Member States preserved.

(5) The outermost regions should benefit from specific measures and from additional funding to offset their structural social and economic situation together with the handicaps resulting from the factors referred to in Article 349 TFEU.

(6) The northern sparsely populated regions should benefit from specific measures and additional funding to offset the severe and natural or demographic handicaps referred to in Article 2 of Protocol No 6 to the 1994 Act of Accession.

⁽¹⁾ OJ C 191, 29.6.2012, p. 30, OJ C 44, 15.2.2013, p. 76 and OJ C 271, 19.9.2013, p. 101.

⁽²⁾ OJ C 225, 27.7.2012, p. 58 and OJ C 17, 19.1.2013, p. 56.

⁽³⁾ OJ C 47, 17.2.2011, p. 1, OJ C 13, 16.1.2013, p. 1 and OJ C 267, 17.9.2013, p. 1.

- (7) To ensure the correct and consistent interpretation of provisions and to contribute to legal certainty for Member States and beneficiaries, it is necessary to define certain terms that are used in this Regulation.
- (8) Where a time limit is set for the Commission to adopt or amend a decision, in accordance with this Regulation, the time limit for the adoption or amendment of such a decision should not include the period starting on the date on which the Commission has sent its observations to the Member State and lasting until the Member State has responded to those observations.
- (9) This Regulation consists of five parts, of which the first sets out the subject-matter and definitions, the second contains rules applicable to all ESI Funds, the third includes provisions applicable only to the ERDF, the ESF and the Cohesion Fund (the 'Funds'), the fourth includes provisions applicable only to the Funds and to the EMFF and the fifth includes the final provisions. In order to ensure consistency in the interpretation of the different parts of this Regulation and between this Regulation and the Fund-specific Regulations, it is important to set out clearly the relationships between them. In addition, specific rules established in the Fund-specific rules can be complementary but should derogate from the corresponding provisions in this Regulation only where such derogation is specifically provided for in this Regulation.
- (10) Under Article 317 TFEU, and in the context of shared management, the conditions allowing the Commission to exercise its responsibilities for implementation of the budget of the Union should be specified and the responsibilities of cooperation with the Member States clarified. Those conditions should enable the Commission to obtain assurance that Member States are using the ESI Funds in a legal and regular manner and in accordance with the principle of sound financial management within the meaning of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽¹⁾ (the 'Financial Regulation'). Member States at the appropriate territorial level, in accordance with their institutional, legal and financial framework and the bodies designated by them for that purpose should be responsible for preparing and implementing programmes. Those conditions should also ensure that attention is drawn to the need to ensure complementarity and consistency of relevant Union intervention, to respect the principle of proportionality and take into account the overall aim of reducing administrative burden.
- (11) For the Partnership Agreement and each programme respectively, each Member State should organise a partnership with the representatives of competent regional, local, urban and other public authorities, economic and social partners and other relevant bodies representing civil society, including environmental partners, non-governmental organisations and bodies responsible for promoting social inclusion, gender equality and non-discrimination, including, where appropriate, the umbrella organisations of such authorities and bodies. The purpose of such a partnership is to ensure respect for the principles of multi-level governance, and also of subsidiarity and proportionality and the specificities of the Member States' different institutional and legal frameworks as well as to ensure the ownership of planned interventions by stakeholders and build on the experience and the know-how of relevant actors. The Member States should identify the most representative relevant partners. Those partners should include institutions, organisations and groups which are capable of influencing the preparation or could be affected by the preparation and implementation of the programmes. In this context it should also be possible for Member States to identify, where appropriate, as relevant partners, umbrella organisations which are the associations, federations or confederations of relevant regional, local and urban authorities or other bodies in accordance with applicable national law and practices.
- The Commission should be empowered to adopt a delegated act providing for a European code of conduct on partnership in order to support and facilitate Member States in the organisation of partnership with regard to ensuring the involvement of relevant partners in the preparation, implementation, monitoring and evaluation of Partnership Agreements and programmes in a consistent manner. That adopted delegated act should have under no circumstances and in no way of its interpretation retroactive effect or be the basis for establishing irregularities leading to financial corrections. The adopted delegated act should not specify a date of application that is earlier than the date of its adoption. The adopted delegated act should allow Member States to decide on the most appropriate detailed arrangements for implementing the partnership in accordance with their institutional and legal framework as well as their national and regional competences, provided that its objectives, as laid down in this Regulation, are achieved.
- (12) The activities of the ESI Funds and the operations which they support should comply with applicable Union and the related national law which directly or indirectly implements this Regulation and the Fund-specific rules.
- (13) In the context of its effort to increase economic, territorial and social cohesion, the Union should, at all stages of implementation of the ESI Funds, aim at eliminating

⁽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).

inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation as set out in Article 2 of the Treaty on the European Union (TEU), Article 10 TFEU and Article 21 of the Charter of Fundamental Rights of the European Union, taking into account in particular accessibility for persons with disabilities, as well as Article 5(2) of the Charter of Fundamental Rights stating that no one is to be required to perform forced or compulsory labour.

- (14) The objectives of the ESI Funds should be pursued in the framework of sustainable development and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment as set out in Articles 11 and 191(1) TFEU, taking into account the polluter pays principle. To this end, the Member States should provide information on the support for climate change objectives, in line with the ambition to devote at least 20 % of the budget of the Union to those objectives, using a methodology based on the categories of intervention, focus areas or measures adopted by the Commission by means of an implementing act reflecting the principle of proportionality.
- (15) In order to contribute to the Union strategy for smart, sustainable and inclusive growth and to the Fund-specific missions pursuant to their Treaty-based objectives, including economic, social and territorial cohesion, the ESI Funds should focus their support on a limited number of common thematic objectives. The precise scope of each of the ESI Funds should be set out in Fund-specific rules. It should be possible to limit that scope to only some of the thematic objectives defined in this Regulation.
- (16) In order to maximise the contribution of the ESI Funds and to establish strategic guiding principles to facilitate the programming process at the level of Member States and the regions, a Common Strategic Framework ('CSF') should be established. The CSF should facilitate the sectoral and territorial coordination of Union intervention under the ESI Funds and with other relevant Union policies and instruments, in line with the targets and objectives of the Union strategy for smart, sustainable and inclusive growth, taking into account the key territorial challenges of the various types of territories.
- (17) The CSF should set out how the ESI Funds are to contribute to the Union strategy for smart, sustainable and inclusive growth, the arrangements to promote an integrated use of the ESI Funds, the arrangements for coordination between the ESI Funds and other relevant Union policies and instruments, horizontal principles and cross-cutting policy objectives for the implementation of the ESI Funds, the arrangements to address key territorial challenges and priority areas for cooperation activities under the ESI Funds.
- (18) Member States and regions increasingly face challenges that relate to the impact of globalisation, environmental and energy concerns, population ageing and demographic shifts, technological transformation and innovation demands, and social inequality. Due to the complex and interrelated nature of such challenges, the solutions supported by the ESI Funds should be of an integrated nature, multi-sectoral and multi-dimensional. In this context, and in order to increase the effectiveness and efficiency of the policies, it should be possible for the ESI Funds to be combined into integrated packages which are tailor-made to fit the specific territorial needs.
- (19) The combination of a shrinking working population and an increasing proportion of retired people in the general population as well as the problems associated with population dispersion, are expected to continue to place strains, inter alia, on Member States' education and social support structures and thus on the Union's economic competitiveness. Adapting to such demographic changes constitutes one of the core challenges that Member States and regions are to face in the years to come, and as such should be given a particularly high level of consideration for the regions most affected by demographic change.
- (20) On the basis of the CSF, each Member State should prepare, in cooperation with its partners, and in dialogue with the Commission, a Partnership Agreement. The Partnership Agreement should translate the elements set out in the CSF into the national context and set out firm commitments to the achievement of Union objectives through the programming of the ESI Funds. The Partnership Agreement should set out arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth as well as with the Fund-specific missions pursuant to their Treaty-based objectives, arrangements to ensure effective and efficient implementation of the ESI Funds and arrangements for the partnership principle and an integrated approach to territorial development. A distinction should be made between the essential elements of the Partnership Agreement which are subject to a Commission decision and other elements which are not subject to the Commission decision and can be amended by the Member State. It is necessary to envisage specific arrangements for the submission and adoption of the Partnership Agreement and the programmes should the entry into force of one or more Fund-specific Regulations be delayed or be expected to be delayed. This entails establishing provisions which allow for the submission and adoption of the Partnership Agreement even in the absence of certain elements in relation to the ESI Fund or Funds affected by the delay, and the later submission of a revised Partnership Agreement after the entry into force of the delayed Fund-specific Regulation or Regulations.

Since the programmes co-financed by the ESI Fund affected by the delay should in this case be submitted and adopted only after the entry into force of the Fund-specific Regulation concerned, appropriate deadlines for the submission of the affected programmes should also be laid down.

- (21) Member States should concentrate support to ensure a significant contribution to the achievement of Union objectives in line with their specific national and regional development needs. Ex ante conditionalities, as well as a concise and exhaustive set of objective criteria for their assessment, should be defined to ensure that the necessary prerequisites for the effective and efficient use of Union support are in place. To this end, an ex ante conditionality should apply to a priority of a given programme only when it has a direct and genuine link to, and a direct impact on, the effective and efficient achievement of a specific objective for an investment priority or a Union priority, given that not every specific objective is necessarily linked to an ex ante conditionality laid down in the Fund-specific rules. The assessment of applicability of an ex ante conditionality should take account of the principle of proportionality having regard to the level of support allocated, where appropriate. The fulfilment of the applicable ex ante conditionalities should be assessed by the Member State in the framework of its preparation of the programmes and, where appropriate, the Partnership Agreement. The Commission should assess the consistency and adequacy of the information provided by the Member State. In cases where there is a failure to fulfil an applicable ex ante conditionality within the deadline laid down, the Commission should have the power to suspend interim payments to the relevant priorities of the programme under precisely defined conditions.
- (22) The Commission should undertake a performance review based on a performance framework and in cooperation with the Member States, in 2019. The performance framework should be defined for each programme with a view to monitoring progress towards the objectives and targets set for each priority over the course of the 2014 - 2020 programming period (the 'programming period'). In order to ensure that the budget of the Union is not used in a wasteful or inefficient way, where there is evidence that a priority has seriously failed to achieve the milestones that relate only to financial indicators, output indicators and key implementation steps, set out in the performance framework, due to clearly identified implementation weaknesses previously communicated by the Commission, and the Member State has failed to take the necessary corrective action, the Commission should be able to suspend payments to the programme or, at the end of the programming period, to apply financial corrections. The application of financial corrections should take into account, with due respect for the principle of proportionality, the absorption level and external factors contributing to the failure. Financial corrections should not be applied where targets are not achieved because of the impact of socio-economic or environmental factors, significant changes in the economic or environmental conditions in a Member State or because of reasons of force majeure seriously affecting the implementation of the priorities concerned. Result indicators should not be taken into account for the purposes of suspensions or financial corrections.
- (23) In order to facilitate the focus on performance and attainment of the objectives of the Union strategy for smart, sustainable and inclusive growth, a performance reserve consisting of 6 % of the total allocation for the Investment for growth and jobs goal, as well as for the EARDF and for measures financed under shared management in accordance with a future Union legal act establishing the conditions for the financial support for maritime and fisheries policy for the 2014-2020 programming period (the 'EMFF Regulation'), should be established for each Member State. Due to their diversity and multi-country character, there should be no performance reserve for programmes under the European territorial cooperation goal. The resources allocated to the Youth Employment Initiative (YEI) as defined in the operational programme in accordance with Regulation (EU) No 1304/2013 of the European Parliament and of the Council⁽¹⁾ (the 'ESF Regulation'); to technical assistance at the initiative of the Commission; transfers from the first pillar of the CAP to the EAFRD under Regulation (EU) No 1307/2013 of the European Parliament and of the Council⁽²⁾; transfers to the EAFRD pursuant to the provisions on voluntary adjustment of direct payments in 2013 and on transfers to the EAFRD, laid down in Council Regulation (EC) No 73/2009⁽³⁾ in respect of calendar years 2013 and 2014; transfers to the Connecting Europe Facility from the Cohesion Fund; transfers to the Fund for European Aid for the Most Deprived, as defined in a future Union legal act; and innovative actions for sustainable urban development should be excluded for the purpose of calculating the performance reserve.
- (24) A closer link between cohesion policy and the economic governance of the Union is needed in order to ensure that the effectiveness of expenditure under the ESI Funds is underpinned by sound economic policies and that the ESI Funds can, if necessary, be redirected to addressing

⁽¹⁾ Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Regulation (EC) No 1081/2006 (See page 470 of this Official Journal).

⁽²⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (See page 608 of this Official Journal).

⁽³⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

the economic problems a Member State is facing. Under the first strand of measures linking effectiveness of ESI Funds to sound economic governance, the Commission should be able to request amendments to the Partnership Agreement and to the programmes in order to support the implementation of relevant Council recommendations or to maximise the growth and competitiveness impact of the available ESI Funds where Member States are receiving relevant financial assistance. Reprogramming should be used only in cases where it could indeed have a direct impact on the correction of the challenges identified in the relevant Council recommendations under the economic governance mechanisms in order to avoid frequent reprogramming which would disrupt fund management predictability. Under the second strand of measures linking effectiveness of ESI Funds to sound economic governance, where a Member State fails to take effective action in the context of the economic governance process, the Commission should make a proposal to the Council to suspend part or all of the commitments or payments for the programmes of that Member State. It is necessary to establish different procedures for the suspension of commitments and payments. Nevertheless, in both cases, when making a proposal for a suspension, the Commission should take into account all relevant information and give due consideration to any elements arising from, and opinions expressed through, the structured dialogue with the European Parliament.

The scope and level of a suspension should be proportionate and effective, and respect equality of treatment between Member States. Furthermore, a suspension should take into account the economic and social circumstances of the Member State concerned as well as the possible overall economic impact on a Member State resulting from the different steps of the excessive deficit procedure (EDP) and excessive imbalances procedure (EIP).

- (25) By virtue of Protocol No 15 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland, annexed to the TEU and to the TFEU, certain provisions on the excessive deficit and related procedures are not to apply to the United Kingdom. Provisions on suspension of all or part of payments and commitments should therefore not apply to the United Kingdom.
- (26) Due to the paramount importance of the principle of co-financing for the implementation of the ESI Funds, in order to ensure the ownership of the policies on the ground, and in line with the proportional application of suspensions, any decisions on suspensions triggered under the second strand of measures linking effectiveness of ESI Funds to sound economic governance should be made taking into account the specific requirements applicable to the Member State concerned to provide co-financing for the programmes financed from the ESI Funds. The suspensions should be lifted and the funds made available again to the Member State concerned as soon as the Member State takes the necessary action.
- (27) The ESI Funds should be implemented through programmes covering the programming period in accordance with the Partnership Agreement. Programmes should be drawn up by Member States based on procedures that are transparent, in accordance with their institutional and legal framework. Member States and the Commission should cooperate to ensure coordination and consistency of programming arrangements for the ESI Funds. As the content of programmes is closely interlinked with that of the Partnership Agreement, the programmes should be submitted within three months of the submission of the Partnership Agreement. A deadline of nine months from the date of entry into force of this Regulation should be provided for in relation to the submission of programmes under the European territorial cooperation goal in order to take into account the multi-country character of those programmes. In particular, a distinction should be made between the core elements of the Partnership Agreement and programmes which should be subject to a Commission decision and other elements which are not covered by the Commission decision and can be amended under the responsibility of the Member State. Programming should ensure consistency with the CSF and Partnership Agreement, coordination between the ESI Funds and with the other existing funding instruments and the input of the European Investment Bank if relevant.
- (28) With a view to ensuring consistency between programmes supported under different ESI Funds, particularly in the context of ensuring a contribution to the Union strategy for smart, sustainable and inclusive growth, it is necessary to set out common minimum requirements as regards the content of the programmes, which may be complemented by Fund-specific rules to take into account the specific nature of each ESI Fund.
- (29) It is necessary to lay down clear procedures for the assessment, adoption and amendment of programmes by the Commission. In order to ensure consistency between the Partnership Agreement and programmes, it should be specified that programmes, with the exception of programmes under the European territorial cooperation goal, cannot be approved before the adoption by the Commission of a decision approving the Partnership Agreement. To reduce the administrative burden on Member States, any approval of an amendment of certain parts of a programme by the Commission should result automatically in an amendment of the relevant parts of the Partnership Agreement. Furthermore, the immediate mobilisation of the resources allocated to the YEI should also be ensured by establishing special rules for the submission and the approval procedure of the dedicated operational programmes for the YEI referred to in the ESF Regulation.

- (30) In order to optimise the added value from investments funded wholly or in part through the budget of the Union in the field of research and innovation, synergies should be sought in particular between the operation of the ESI Funds and Horizon 2020, as set up in Regulation (EU) No 1291/2013 of the European Parliament and of the Council⁽¹⁾, whilst respecting their distinct objectives. Key mechanisms for achieving those synergies should be the recognition of flat rates for eligible costs from Horizon 2020 for a similar operation and beneficiary and the possibility of combining funding from different Union instruments, including ESI Funds and Horizon 2020, in the same operation while avoiding double financing. In order to strengthen the research and innovation capacities of national and regional actors and to achieve the goal of building a "Stairway to excellence" in less developed regions and low-performing Research, Development and Innovation (RDI) Member States and regions, close synergies should be developed between the ESI Funds and Horizon 2020 in all relevant programme priorities.
- (31) Territorial cohesion has been added to the goals of economic and social cohesion by the TFEU, and it is necessary to address the role of cities, functional geographies and sub-regional areas facing specific geographical or demographic problems. To this end, and to better mobilise potential at a local level, it is necessary to strengthen and facilitate community-led local development by laying down common rules and ensuring close coordination for all relevant ESI Funds. Community-led local development should take into account local needs and potential, as well as relevant socio-cultural characteristics. Responsibility for the design and implementation of community-led local development strategies should be given to local action groups representing the interests of the community, as an essential principle. The detailed arrangements concerning the definition of the area and population covered by the community-led local development strategies should be set out in the relevant programmes in accordance with the Fund-specific rules.
- (32) In order to facilitate a manageable approach to its integration into the programming process, the community-led local development can be carried out under a single thematic objective, either to promote social inclusion and combat poverty, or to promote employment and labour mobility, notwithstanding that actions financed as part of community-led local development could contribute to all other thematic objectives.
- (33) Where an urban or territorial development strategy requires an integrated approach because it involves investments under more than one priority axis of one or more operational programmes, it should be possible for action supported by the Funds, that can be complemented with financial support from the EAFRD or the EMFF, to be carried out as an integrated territorial investment within an operational programme or programmes.
- (34) Financial instruments are increasingly important due to their leverage effect on the ESI Funds, their capacity to combine different forms of public and private resources to support public policy objectives, and because revolving forms of finance make such support more sustainable over the longer term.
- (35) Financial instruments supported by the ESI Funds should be used to address specific market needs in a cost effective way, in accordance with the objectives of the programmes, and should not crowd out private financing. The decision to finance support measures through financial instruments should be determined therefore on the basis of an ex ante assessment which has established evidence of market failures or sub-optimal investment situations and the estimated level and scope of public investment needs. The essential elements of the ex ante assessments should be clearly defined in this Regulation. Given the detailed nature of the ex ante assessment, provisions should be made allowing for the performance of the ex ante assessment in stages and also for reviewing and updating the ex ante assessment during implementation.
- (36) Financial instruments should be designed and implemented so as to promote substantial participation by private sector investors and financial institutions on an appropriate risk-sharing basis. To be sufficiently attractive to the private sector, it is essential that financial instruments are designed and implemented in a flexible manner. Managing authorities should therefore decide on the most appropriate forms for implementing financial instruments in order to address the specific needs of the target regions, in accordance with the objectives of the relevant programme, the results of the ex ante assessment and applicable State aid rules. Where applicable, such flexibility should also include the possibility to reuse part of the resources paid back during the eligibility period in order to provide for the preferential remuneration of private investors or public investors operating under the market economy principle. Such preferential remuneration should take into account market standards and ensure that any State aid complies with applicable Union and national law and is limited to the minimum amount necessary to compensate for the lack of private capital available, taking into account market failures or suboptimal investment situations.

⁽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 (See page 104 of this Official Journal).

- (37) In order to take account of the repayable character of support provided through financial instruments and to align with market practices, support from the ESI Funds provided to final recipients in the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments should be able to cover the entirety of the investments made by final recipients, without distinction of VAT related costs. Accordingly it should only be in cases where financial instruments are combined with grants that the way in which VAT is taken into account at the level of the final recipient should be relevant for the purposes of determining eligibility of expenditure related to the grant.
- (38) It could be justified where certain parts of an investment do not generate sufficient direct financial returns, to combine financial instruments with grant support, to the extent allowed under the applicable State aid rules, in order for the projects to be economically sustainable. Specific conditions preventing double financing in such a case should be set out.
- (39) In order to ensure that resources allocated to financial instruments in favour of SMEs achieve an effective and efficient critical mass of new SME debt finance, it should be possible to use those resources in the entire territory of the Member State concerned regardless of the categories of region therein. However, it should also be possible for negotiation of the funding agreement between the Member State and the EIB to allow for a pro-rata return to a region or group of regions within the same Member State, as part of a single dedicated national programme per financial contribution by the ERDF and EAFRD.
- (40) The contributions by Member States to joint uncapped guarantee and securitisation financial instruments in favour of SMEs should be phased over the years 2014, 2015 and 2016 and the amounts to be paid by the Member States to the EIB should be scheduled accordingly in the funding agreement, in line with standard banking practice and with a view to spreading the effects on payment appropriations in any individual year.
- (41) In the case of securitisation transactions it should be ensured at programme closure that at least the amount corresponding to the Union contribution has been used for the objective of supporting SMEs, in line with the principles relating to financial instruments set out in the Financial Regulation.
- (42) Managing authorities should have the flexibility to contribute resources from programmes to financial instruments set up at Union level and managed directly or indirectly by the Commission, or to instruments set up at national, regional, transnational or cross-border level and managed by or under the responsibility of the managing authority. Managing authorities should also have the possibility of implementing financial instruments directly, through existing or newly created funds or through funds of funds.
- (43) In the interests of ensuring proportionate control arrangements and of safeguarding the added value of financial instruments, intended final recipients should not be deterred by there being an excessive administrative burden. The bodies responsible for the audits of programmes should in the first instance carry out audits at the level of managing authorities and the bodies implementing financial instruments including funds of funds. However, there may be specific circumstances where the necessary documents to complete such audits are not available at the level of the managing authorities or at the level of the bodies implementing financial instruments or where such documents do not represent a true and accurate record of support provided. In such specific cases, it is necessary to lay down certain provisions to also allow for audits at the level of final recipients.
- (44) The amount of the resources paid at any time from the ESI Funds to financial instruments should correspond to the amount necessary to implement planned investments and payments to final recipients, including management costs and fees. Accordingly, applications for interim payments should be phased. The amount to be paid as an interim payment should be subject to a maximum ceiling of 25 % of the total amount of programme contributions committed to the financial instrument under the relevant funding agreement, with subsequent interim payments conditional on a minimum percentage of the actual amounts included in previous applications having been spent as eligible expenditure.
- (45) It is necessary to lay down specific rules regarding the amounts to be accepted as eligible expenditure at closure of a programme, to ensure that the amounts, including the management costs and fees, paid from the ESI Funds to financial instruments are effectively used for investments in final recipients. The rules should be sufficiently flexible to make it possible to support equity-based instruments for the benefit of targeted enterprises and should, therefore, take into account certain characteristics specific to equity-based instruments for enterprises, such as market practices in relation to the provision of follow-on finance in the field of venture capital funds. Subject to the conditions laid down in this Regulation, targeted enterprises should be able to benefit from continued support from the ESI Funds to such instruments after the end of the eligibility period.

- (46) It is also necessary to lay down specific rules regarding the reuse of resources attributable to support from the ESI Funds until the end of the eligibility period and to lay down further rules regarding the use of resources after the end of the eligibility period.
- (47) As a general rule, support from the ESI Funds should not be used to finance investments which have already been physically completed or fully implemented at the date of the investment decision. However, in respect of infrastructure investments with the objective of supporting urban development or urban regeneration or similar infrastructure investments with the objective of diversifying non-agricultural activities in rural areas, a certain amount of support could be necessary for the re-organisation of a debt portfolio regarding infrastructure forming part of a new investment. In such cases it should be possible to use the support from the ESI Funds to reorganise a debt portfolio up to a maximum of 20 % of the total amount of programme support from the financial instrument to the investment.
- (48) Member States should monitor programmes in order to review implementation and progress towards achieving the programme's objectives. To this end, monitoring committees should be set up by the Member State, in accordance with its institutional, legal and financial framework and their composition and functions defined for the ESI Funds. Given the special nature of programmes under the European territorial cooperation goal, specific rules should be laid down for monitoring committees for those programmes. Joint monitoring committees could be set up to facilitate coordination between the ESI Funds. In order to ensure effectiveness, a monitoring committee should be able to make observations to managing authorities regarding implementation and evaluation of the programme, including actions related to the reduction of the administrative burden on beneficiaries and should monitor actions taken as a result of its observations.
- (49) Alignment of the monitoring and reporting arrangements of the ESI Funds is necessary to simplify management arrangements at all levels. It is important to ensure proportionate reporting requirements but also the availability of comprehensive information on progress made at key review points. Therefore it is necessary that reporting requirements reflect information needs in given years and are aligned with the timing of the performance review.
- (50) With a view to monitoring progress of programmes, an annual review meeting should take place between each Member State and the Commission. The Member State and the Commission should however be able to agree not to organise the meeting in years other than 2017 and 2019 in order to avoid an unnecessary administrative burden.
- (51) In order for the Commission to monitor progress made towards achieving Union objectives as well as Fund-specific missions pursuant to their Treaty-based objectives, Member States should submit progress reports on the implementation of their Partnership Agreements. On the basis of such reports, the Commission should prepare a strategic report on progress in 2017 and 2019. In order to provide for a regular strategic policy debate on the contribution of the ESI Funds to the achievement of the Union strategy on smart sustainable and inclusive growth, and to improve the quality of spending and the effectiveness of the policy in line with the European Semester, the strategic reports should be debated in the Council. On the basis of that debate the Council should be able to provide input to the assessment made at the spring meeting of the European Council on the role of all Union policies and instruments in delivering sustainable job-creating growth across the Union.
- (52) It is necessary to evaluate the effectiveness, efficiency and impact of assistance from the ESI Funds in order to improve the quality of design and implementation of programmes, and to determine the impact of programmes in relation to the targets under the Union strategy for smart, sustainable and inclusive growth and, having regard to the size of the programme, in relation to gross domestic product (GDP) and unemployment in the programme area concerned, where appropriate. The responsibilities of Member States and the Commission in this regard should be specified.
- (53) In order to improve the quality of the design of each programme, and verify whether its objectives and targets can be reached, an ex ante evaluation of each programme should be carried out.
- (54) An evaluation plan should be drawn up by the managing authority or Member State. It should be possible for that evaluation plan to cover more than one programme. During the programming period managing authorities should ensure that evaluations are carried out to assess the effectiveness, efficiency and impact of a programme. The monitoring committee and the Commission should be informed about the results of evaluations to facilitate management decisions.
- (55) Ex post evaluations should be carried out in order to assess the effectiveness and efficiency of the ESI Funds and their impact on the overall goals of the ESI Funds and the Union strategy for smart, sustainable and inclusive growth, taking account of the targets established for that Union strategy. For each of the ESI Funds, the Commission should prepare a synthesis report outlining the main conclusions of the ex-post evaluations.

- (56) The types of action that can be undertaken at the initiative of the Commission and of the Member States as technical assistance with support from the ESI Funds should be specified.
- (57) In order to ensure an effective use of Union resources, and avoid the over-financing of operations generating net revenue after completion, different methods should be used to determine the net revenue generated by such operations, including a simplified approach based on flat rates for sectors or subsectors. The flat rates should be based on historical data available to the Commission, the potential for cost recovery and the polluter-pays principle, where applicable. There should also be provision to extend flat rates to new sectors, introduce subsectors or review the rates for future operations when new data becomes available, by means of a delegated act. The use of flat rates could be particularly suitable for operations in the fields of information and communication technologies (ICT), RDI and energy efficiency. In addition, to ensure the application of the principle of proportionality and to take account of other regulatory and contractual provisions that could apply, it is necessary to set out the exemptions from those rules.
- (58) It is important to ensure a proportionate approach and avoid a duplication of the verification of financing needs in the case of operations which generate net revenue after completion which are also subject to State aid rules, given that such rules also establish limits on support which can be granted. Consequently, where there is *de minimis* aid, compatible State aid to SMEs with an aid intensity or an aid amount limit applied, or compatible State aid to large enterprises where an individual verification of financing needs in accordance with applicable State aid rules has been carried out, the provisions requiring the calculation of net revenue should not apply. Nevertheless, it should be open to a Member State to apply the methods for calculating net revenue where this is provided for in national rules.
- (59) Public Private Partnerships ("PPPs") can be an effective means of delivering operations which ensure the achievement of public policy objectives by bringing together different forms of public and private resources. In order to facilitate the use of ESI Funds to support operations structured as PPPs this Regulation should take account of certain characteristics specific to PPPs by adapting some of the common provisions on the ESI Funds.
- (60) The starting and closing dates for the eligibility of expenditure should be defined so as to provide for a uniform and equitable rule applying to the implementation of the ESI Funds across the Union. In order to facilitate the execution of programmes, it is appropriate to specify that the starting date for the eligibility of expenditure can be prior to 1 January 2014 if the Member State concerned submits a programme before that date. Taking into account the urgent need to mobilise the resources allocated to the YEI to support its immediate implementation, exceptionally the starting date for the eligibility of expenditure should be 1 September 2013. With a view to ensuring an effective use of ESI Funds and reducing the risk to the budget of the Union, it is necessary to put in place restrictions on support for completed operations.
- (61) In accordance with the principle of subsidiarity and subject to exceptions provided for in Regulation (EU) No 1301/2013 of the European Parliament and of the Council⁽¹⁾, the ESF Regulation, Regulation (EU) No 1300/2013 of the European Parliament and of the Council⁽²⁾, Regulation (EU) No 1299/2013 of the European Parliament and of the Council⁽³⁾, Regulation (EU) No 1305/2013 of the European Parliament and of the Council⁽⁴⁾ and in the EMFF Regulation, Member States should adopt national rules on the eligibility of expenditure.
- (62) With a view to simplifying the use of the ESI Funds and reducing the risk of error, while providing for differentiation where needed to reflect the specificities of policy, it is appropriate to define the forms of support, harmonised conditions for the reimbursement of grants and repayable assistance, flat rate financing, specific eligibility rules for grants and repayable assistance and specific conditions on the eligibility of operations depending on location.
- (63) It should be possible to provide support from the ESI Funds in the form of grants, prizes, repayable assistance or financial instruments, or a combination thereof, in order to provide the bodies responsible with a choice of the most appropriate form of support to address identified needs.
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- ⁽¹⁾ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (See page 289 of this Official Journal).
- ⁽²⁾ Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 (See page 281 of this Official Journal).
- ⁽³⁾ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (See page 259 of this Official Journal).
- ⁽⁴⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development and repealing Regulation (EC) No 1698/2005 (See page 487 of this Official Journal).

- (64) To ensure the effectiveness, fairness and sustainable impact of the intervention of the ESI Funds, provisions guaranteeing that investments in businesses and infrastructures are long-lasting and prevent the ESI Funds from being used to undue advantage should be in place. Experience has shown that a period of five years is an appropriate minimum period to be applied, except where State aid rules provide for a different period. Nevertheless, and in line with the principle of proportionality, it is possible that a more limited period of three years would be justified where the investment concerns the maintenance of investments or jobs created by SMEs. In the case of an operation comprising investment in infrastructure or productive investment, and where the beneficiary is not an SME, such an operation should repay the contribution from the ESI Funds if, within 10 years of the final payment to the beneficiary, the productive activity is subject to relocation outside the Union. It is appropriate to exclude actions supported by the ESF and those not entailing productive investment or investment in infrastructure from the general requirement of durability, unless such requirements are derived from applicable State aid rules, and to exclude contributions to or from financial instruments. Sums unduly paid should be recovered and be subject to procedures applicable to irregularities.
- (65) Member States should adopt adequate measures to guarantee the proper set up and functioning of their management and control systems to give assurance on the legal and regular use of the ESI Funds. The obligations of Member States as regards the management and control systems of programmes, and in relation to the prevention, detection and correction of irregularities and infringements of Union law should therefore be specified.
- (66) In accordance with the principles of shared management, Member States and the Commission should be responsible for the management and control of programmes. Member States should have the primary responsibility, through their management and control systems, for the implementation and control of the operations in programmes. In order to strengthen the effectiveness of the control over the selection and implementation of operations and the functioning of the management and control system, the functions of the managing authority should be specified.
- (67) Member States should fulfil the management, control and audit obligations and assume the responsibilities as laid down in the rules on shared management set out in this Regulation, the Financial Regulation and in the Fund-specific rules. Member States should ensure that, in accordance with the conditions set out in this Regulation, effective arrangements for the examination of complaints in relation to the ESI Funds are in place. In accordance with the principle of subsidiarity, Member States should, upon request of the Commission, examine complaints submitted to the Commission falling within the scope of their arrangements and should inform the Commission of the results of examinations upon request.
- (68) The powers and responsibilities of the Commission with regard to verifying the effective functioning of the management and control systems, and to require Member State action, should be laid down. The Commission should also have the power to carry out on-the-spot audits and checks focused on issues relating to sound financial management in order to be able to draw conclusions concerning the performance of the ESI Funds.
- (69) Budget commitments of the Union should be effected annually. In order to ensure effective programme management, it is necessary to lay down common rules for pre-financing, interim requests for payment and the final balance, without prejudice to specific rules that are required for each of the ESI Funds.
- (70) The pre-financing payment at the start of programmes ensures that a Member State has the means to provide support to beneficiaries from the start of the implementation of the programme, so that those beneficiaries receive advances where necessary to make the planned investments and are reimbursed quickly following the submission of payment claims. Therefore, provisions should be made for initial pre-financing amounts from the ESI Funds. Initial pre-financing should be totally cleared at closure of the programme.
- (71) In order to safeguard the Union's financial interests, measures should be provided for that are limited in time and that allow the authorising officer by delegation to interrupt payments where there is clear evidence to suggest a significant deficiency in the functioning of the management and control system, evidence of irregularities linked to a request for payment, or a failure to submit documents for the purpose of examination and acceptance of accounts. The duration of the interruption period should be for a period of up to six months, with a possible extension of that period up to nine months with the agreement of the Member State, to allow sufficient time to resolve the causes of the interruption thereby avoiding the application of suspensions.
- (72) In order to safeguard the budget of the Union, it is possible that it would be necessary for the Commission to make financial corrections. To ensure legal certainty for the Member States, it is important to define the circumstances under which breaches of applicable Union law, or national law related to its application, can lead to financial corrections by the Commission. In order to ensure that any financial corrections which the Commission imposes on Member States are related to the protection of the Union's financial interests, such

corrections should be confined to cases where the breach of applicable Union law or national law related to applying relevant Union law concerns the eligibility, regularity, management or control of operations and the corresponding expenditure declared to the Commission. To ensure proportionality it is important that the Commission consider the nature and the gravity of the breach and the related financial implications for the budget of the Union when deciding on a financial correction.

- (73) In order to encourage financial discipline, it is appropriate to define the arrangements for decommitment of any part of the budgetary commitment in a programme, in particular where an amount can be excluded from decommitment, in particular where delays in implementation result from circumstances which are independent of the party concerned, abnormal or unforeseeable and the consequences of which cannot be avoided despite the diligence shown, as well as in a situation in which a request for payment has been made but for which the payment deadline has been interrupted or the payment suspended.
- (74) The decommitment procedure is also a necessary part of the mechanism for the allocation of the performance reserve and in such cases it should be possible to reconstitute the appropriations for their subsequent commitment to other programmes and priorities. In addition, in the implementation of certain specific financial instruments in favour of SMEs where decommitments result from the discontinuance of participation by a Member State in such financial instruments, the subsequent reconstitution of the appropriations for commitment in other programmes should be provided for. Given that the introduction of additional provisions in the Financial Regulation will be necessary in order to allow for such reconstitution of appropriations, such procedures should only apply with effect from the date of entry into force of the corresponding amendment to the Financial Regulation.
- (75) Additional general provisions are necessary in relation to the specific functioning of the Funds. In particular, in order to increase their added value, and to enhance their contribution to the priorities of the Union strategy for smart, sustainable and inclusive growth and the Fund-specific missions pursuant to their Treaty-based objectives, the functioning of the Funds should be simplified and concentrated on the Investment for growth and jobs goal and European territorial cooperation goal.
- (76) Additional provisions for the specific functioning of the EAFRD and the EMFF are set out in the relevant sector-specific legislation.
- (77) In order to promote the TFEU objectives of economic, social and territorial cohesion, the Investment for growth

and jobs goal should support all regions. To provide balanced and gradual support and reflect the level of economic and social development, resources under that goal should be allocated from the ERDF and the ESF among the less developed regions, the transition regions and the more developed regions according to their GDP per capita in relation to the EU-27 average. In order to ensure the long-term sustainability of investment from the Structural Funds, to consolidate the development achieved and to encourage the economic growth and social cohesion of the Union's regions, regions whose GDP per capita for the 2007-2013 programming period was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita has grown to more than 75 % of the EU-27 average should receive at least 60 % of their indicative average annual 2007-2013 allocation. The total allocation from the ERDF, the ESF and the Cohesion Fund for a Member State should be at least 55 % of its individual 2007-2013 total allocation. Member States whose per capita gross national income (GNI) is less than 90 % of that of the Union average should benefit under the Investment for growth and jobs goal from the Cohesion Fund.

- (78) Objective criteria should be fixed for designating eligible regions and areas for support from the Funds. To this end, the identification of the regions and areas at Union level should be based on the common system of classification of the regions established by Regulation (EC) No 1059/2003 of the European Parliament and the Council ⁽¹⁾, amended by Commission Regulation (EC) No 105/2007 ⁽²⁾.
- (79) In order to set out an appropriate financial framework for the Funds, the Commission should establish, by means of implementing acts, the annual breakdown of available commitment appropriations using an objective and transparent method with a view to targeting the regions whose development is lagging behind, including those receiving transitional support. In order to take account of the particularly difficult situation of Member States suffering from the crisis, and in accordance with Council Regulation (EU, Euratom) No 1311/2013 ⁽³⁾, the Commission should review the total allocations of all Member States in 2016 on the basis of the then available most recent statistics and, where there is a cumulative divergence of more than +/- 5 %, adjust those allocations. The required adjustment should be spread in equal proportions over the years 2017-2020.

⁽¹⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

⁽²⁾ Commission Regulation (EC) No 105/2007 of 1 February 2007 amending the annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 39, 10.2.2007, p. 1).

⁽³⁾ Regulation (EU, Euratom) No 1311/2013 of the Council of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (See page 884 of this Official Journal).

- (80) In order to encourage the necessary acceleration of development of infrastructure in transport and energy as well as ICT across the Union, a Connecting Europe Facility (CEF) is created, in accordance with Regulation (EU) 1316/2013 of the European Parliament and of the Council⁽¹⁾. Support should be provided from the Cohesion Fund to projects implementing core networks or for projects and horizontal activities identified in Part I of the Annex to that Regulation.
- (81) The allocation of the annual appropriations from the Funds to a Member State should be limited to a ceiling that would be fixed taking into account the GDP of that particular Member State.
- (82) It is necessary to fix the limits of resources for the Investment for growth and jobs goal and to adopt objective criteria for their allocation to regions and Member States. Member States should concentrate support to ensure sufficient investment is targeted at youth employment, labour mobility, knowledge, social inclusion and combating poverty, thus ensuring that the share of the ESF as a percentage of total combined resources for the Structural Funds and the Cohesion Fund at Union level, excluding the support from the Cohesion Fund for transport infrastructure under the CEF and support from the Structural Funds for aid for the most deprived, in Member States is not less than 23,1 %.
- (83) Given the urgent priority of addressing youth unemployment in the Union's most affected regions, as well as in the Union as a whole, a YEI is created and funded from a specific allocation and from targeted investment from the ESF to add to and reinforce the considerable support already provided through the ESI Funds. The YEI should aim to support young people, in particular those not in employment, education or training residing in the eligible regions. The YEI should be implemented as a part of the Investment for growth and jobs goal.
- (84) In addition, in line with the headline target on poverty reduction, it is necessary to reorient the Fund for European Aid for the Most Deprived to promote social inclusion. A mechanism should be envisaged which transfers resources to this instrument from the Structural Funds' allocations of each Member State.
- (85) Taking into account the present economic circumstances, the maximum level of transfer (capping) from the Funds to each individual Member State should not result in allocations per Member State higher than 110 % of their level in real terms for the 2007–2013 programming period.
- (86) With a view to ensuring an appropriate allocation to each category of regions, resources from the Funds should not be transferred between less developed, transition and more developed regions except in duly justified circumstances linked to the delivery of one or more thematic objectives. Such transfers should involve no more than 3 % of the total appropriation for that category of region.
- (87) In order to ensure a genuine economic impact, support from the Funds should not replace public or equivalent structural expenditure by Member States under the terms of this Regulation. In addition, so that the support from the Funds takes into account a broader economic context, the level of public expenditure should be determined with reference to the general macroeconomic conditions in which the financing takes place based on the indicators provided in the stability and convergence programmes submitted annually by Member States in accordance with Council Regulation (EC) No 1466/1997⁽²⁾. Verification by the Commission of the principle of additionality should concentrate on the Member States in which less developed regions cover at least 15 % of the population because of the scale of the financial resources allocated to them.
- (88) It is necessary to lay down additional provisions concerning the programming, management, monitoring and control of operational programmes supported by the Funds in order to strengthen the focus on results. In particular, it is necessary to set out detailed requirements for the content of the operational programmes. This should facilitate the presentation of a consistent intervention logic to tackle the development needs identified, to set out the framework for performance assessment and to underpin the effective and efficient implementation of the Funds. As a general principle a priority axis should cover one thematic objective, one Fund and one category of region. Where appropriate and in order to increase the effectiveness in a thematically coherent integrated approach, it should be possible for a priority axis to relate to more than one category of region and combine one or more complementary investment priorities from the ERDF, ESF and the Cohesion Fund under one or more thematic objectives.
- (89) In circumstances where a Member State prepares a maximum of one operational programme for each Fund, so that both the programmes and the Partnership Agreement are prepared at national level, specific arrangements should be set out to ensure the complementarity of such documents.

⁽¹⁾ Regulation 1316/2013 of the European Parliament and of the Council of 11 december 2013, establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

⁽²⁾ Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

- (90) In order to reconcile the need for concise operational programmes setting out clear commitments by the Member States and the need to allow for flexibility for adjustment to changing circumstances, a distinction should be made between the essential elements of the operational programme which are subject to a Commission decision and other elements which are not subject to a Commission decision and can be amended by a Member State. Consequently provision should be made for procedures that allow for the amendment of those non-essential elements at national level without a decision by the Commission.
- (91) With a view to improving complementarities and simplifying implementation, it should be possible to combine support from the Cohesion Fund and the ERDF with support from the ESF in joint operational programmes under the Investment for growth and jobs goal.
- (92) Major projects represent a substantial share of Union spending and are frequently of strategic importance with respect to the achievement of the Union strategy for smart, sustainable and inclusive growth. Therefore it is justified that operations above certain thresholds continue to be subject to specific approval procedures under this Regulation. The threshold should be established in relation to total eligible cost after taking account of expected net revenues with a higher threshold for transport projects due to the typically larger size of investments in that sector. To ensure clarity, it is appropriate to define the content of a major project application for this purpose. The application should contain the necessary information to provide assurance that the financial contribution from the Funds does not result in a substantial loss of jobs in existing locations within the Union.
- (93) In order to promote the preparation and implementation of major projects on a sound, economic and technical basis and to encourage the use of expert advice at an early stage, where independent experts supported by technical assistance of the Commission or, in agreement with the Commission, other independent experts, are able to provide clear statements on a major project's feasibility and economic viability, the Commission approval procedure should be streamlined. The Commission should be able to refuse approval of the financial contribution only where it establishes a significant weakness in the independent quality review.
- (94) In cases where an independent quality review of a major project has not been undertaken, the Member State should submit all required information and the Commission should appraise the major project to determine whether the requested financial contribution is justified.
- (95) For the sake of continuity of implementation, in order to avoid an unnecessary administrative burden as well as for the purposes of alignment with the Commission Decision on guidelines on closure of the 2007-2013 programming period, phasing provisions are established for major projects approved under Council Regulation (EC) No 1083/2006 ⁽¹⁾ whose implementation period is expected to extend over the programming period covered by this Regulation. Subject to certain conditions, there should be a fast track procedure for the notification and approval of a second or subsequent phase of a major project for which the preceding phase or phases were approved by the Commission under the 2007-2013 programming period. Each individual phase of the phased operation, which serves the same overall objective, should be implemented in accordance with the rules of the relevant programming period.
- (96) In order to give Member States the option of implementing part of an operational programme using a result-based approach, it is useful to provide for a joint action plan comprising a project or group of projects to be carried out by a beneficiary to contribute to the objectives of the operational programme. In order to simplify and reinforce the result orientation of the Funds, the management of the joint action plan should be exclusively based on jointly agreed milestones, outputs and results as defined in the Commission decision adopting the joint action plan. Control and audit of a joint action plan should also be limited to whether it achieves its milestones, outputs and results. Consequently, it is necessary to lay down rules on its preparation, content, adoption, financial management and control of joint action plans.
- (97) It is necessary to adopt specific rules in relation to the functions of the monitoring committee and the annual reports on implementation of operational programmes supported by the Funds. Additional provisions for the specific functioning of the EAFRD are set out in the relevant sector specific legislation.
- (98) To ensure the availability of essential and up to date information on programme implementation, it is necessary that Member States provide the Commission with the key data on a regular basis. In order to avoid an additional burden on Member States, this should be limited to data collected continuously, and the transmission should be performed by way of electronic data exchange.
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- ⁽¹⁾ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

- (99) In order to reinforce the monitoring of the progress with regard to the implementation of the Funds and to facilitate financial management, it is necessary to ensure the availability of basic financial data on the progress of implementation in a timely manner.
- (100) In accordance with Article 175 TFEU, the Commission is to submit Cohesion Reports to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions every three years on the progress made towards achieving the Union's economic, social and territorial cohesion. It is necessary to lay down provisions concerning the content of this report.
- (101) It is important to bring the achievements of the Funds to the attention of the general public and to raise awareness of the objectives of cohesion policy. Citizens should have the right to know how the Union's financial resources are invested. The responsibility to ensure that the appropriate information is communicated to the public should lie with both the managing authorities and the beneficiaries as well as with Union institutions and advisory bodies. To ensure more efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission, the resources allocated to communication actions under this Regulation should also contribute to covering the corporate communication of the political priorities of the Union in so far as they are related to the general objectives of this Regulation.
- (102) With a view to strengthening accessibility and transparency of information about funding opportunities and project beneficiaries, in each Member State a single website or website portal providing information on all the operational programmes, including the lists of operations supported under each operational programme, should be made available.
- (103) For the purpose of ensuring wide dissemination of information about the achievements of the Funds and the role of the Union therein and to inform potential beneficiaries about funding opportunities, detailed rules taking account of the size of the operational programmes in accordance with the principle of proportionality about information and communication measures, as well as certain technical characteristics of such measures, should be defined in this Regulation.
- (104) In order to ensure that the allocation for each Fund is concentrated on the Union strategy for smart, sustainable and inclusive growth and the Fund-specific missions pursuant to their Treaty-based objectives, it is necessary to establish ceilings for the allocation to technical assistance of the Member State. It is also necessary to ensure that the legal framework for the programming of technical assistance facilitates the creation of streamlined delivery arrangements in a context where Member States implement multiple Funds in parallel and it should be possible for that framework to comprise several categories of regions.
- (105) It is necessary to determine the elements for modulating the co-financing rate from the Funds to priority axes, in particular, to increase the multiplier effect of Union resources. It is also necessary to establish the maximum rates of co-financing by category of region in order to ensure that the principle of co-financing is respected through an appropriate level of public or private national support.
- (106) It is necessary for Member States to designate a managing authority, a certifying authority and a functionally independent auditing authority for each operational programme. To provide flexibility for Member States in setting up control systems, it is appropriate to provide for the option for the functions of the certifying authority to be carried out by the managing authority. Member States should also be allowed to designate intermediate bodies to carry out certain tasks of the managing authority or the certifying authority. Member States should in that case lay down clearly their respective responsibilities and functions.
- (107) In order to take account of the specific organisation of the management and control systems for the Funds and the EMFF and the need to ensure a proportionate approach, specific provisions should be laid down in relation to the designation of the managing authority and the certifying authority. In order to avoid an unnecessary administrative burden, the ex ante verification of compliance with the designation criteria indicated in this Regulation should be limited to the managing and certifying authority, and, in accordance with the conditions laid down in this Regulation, no additional audit work should be required when the system is essentially the same as in the 2007-2013 programming period. There should be no requirement to approve the designation by the Commission. However, in order to increase legal certainty, Member States should have the option to submit the documents concerning the designation to the Commission subject to certain conditions laid down in this Regulation. The monitoring of compliance with the designation criteria carried out on the basis of audit and control arrangements should, where results show non-compliance with the criteria, give rise to remedial actions, and possibly to the ending of the designation.
- (108) The managing authority bears the main responsibility for the effective and efficient implementation of the Funds and the EMFF and thus fulfils a substantial number of functions related to programme management and monitoring, financial management and controls as well as project selection. Accordingly, the managing authority's responsibilities and functions should be set out.

- (109) The certifying authority should draw up and submit to the Commission payment applications. It should draw up the accounts, certifying their completeness, accuracy and veracity and that the expenditure entered in them complies with applicable Union and national rules. The certifying authority's responsibilities and functions should be set out.
- (110) The audit authority should ensure that audits are carried out on the management and control systems, on an appropriate sample of operations and on the accounts. The audit authority's responsibilities and functions should be set out. Audits of declared expenditure should be carried out on a representative sample of operations in order to enable the results to be extrapolated. As a general rule, a statistical sampling method should be used in order to provide a reliable representative sample. Nevertheless, audit authorities should be able to use in duly justified circumstances a non-statistical sampling method provided that the conditions laid down in this Regulation are complied with.
- (111) Without prejudice to the Commission's powers as regards financial control, cooperation between the Member States and the Commission in this field should be increased and criteria should be established which allow the Commission to determine, in the context of its strategy of control of national systems, the level of assurance it should obtain from national audit bodies.
- (112) In addition to common rules on financial management for the ESI Funds, additional provisions for the Funds and the EMFF should be laid down. In particular, with a view to ensuring reasonable assurance for the Commission prior to the acceptance of accounts, applications for interim payments should be reimbursed, at a rate of 90 % of the amount resulting from applying the co-financing rate for each priority, laid down in the decision adopting the operational programme, to the eligible expenditure for the priority. The outstanding amounts due should be paid to the Member States upon acceptance of accounts, provided that the Commission is able to conclude that the accounts are complete, accurate and true.
- (113) Beneficiaries should receive the support in full no later than 90 days from the date of submission of the payment claim by the beneficiary, subject to the availability of funding from initial and annual pre-financing and interim payments. The managing authority should be able to interrupt the deadline where supporting documents are incomplete or there is evidence of irregularity requiring further investigation. Initial and annual pre-financing should be provided for to ensure that Member States have sufficient means to implement programmes under such arrangements. Annual pre-financing should be cleared each year with the acceptance of accounts.
- (114) To reduce the risk of irregular expenditure being declared, it should be possible for a certifying authority, without any need for additional justification, to include the amounts which require further verification in an interim payment application after the accounting year in which they were entered into its accounting system.
- (115) To ensure the appropriate application of the general rules on decommitment, the rules established for the Funds and the EMFF should detail how the deadlines for decommitment are established.
- (116) In order to apply the requirements of the Financial Regulation to the financial management of the Funds and the EMFF, it is necessary to set out procedures for the preparation, examination and acceptance of accounts which should ensure a clear basis and legal certainty for these arrangements. In addition, in order to allow a Member State properly to fulfil its responsibilities, it should be possible for the Member State to exclude amounts which are the subject of an ongoing assessment of legality and regularity.
- (117) In order to reduce the administrative burden on beneficiaries, specific time limits should be set out during which the managing authorities are obliged to ensure the availability of documents for operations following submission of expenditure or completion of an operation. In accordance with the principle of proportionality, the period for keeping the documents should be differentiated depending on the total eligible expenditure of an operation.
- (118) As accounts are verified and accepted every year, a significant simplification of the closure procedure should be introduced. The final closure of the programme should therefore be based only on the documents relating to the final accounting year and the final implementation report or the last annual implementation report, without any need to provide any additional documents.
- (119) In order to safeguard the Union's financial interests and provide the means to ensure effective programme implementation, provisions should be laid down allowing for the suspension by the Commission of payments at the level of priorities or operational programmes.
- (120) In order to provide legal certainty for Member States, it is appropriate to lay down the specific arrangements and procedures for financial corrections by Member States and by the Commission in respect of the Funds and the EMFF respecting the principle of proportionality.

- (121) It is necessary to establish a legal framework which provides robust management and control systems at national and regional level and an appropriate division of roles and responsibilities in the context of shared management. The role of the Commission should therefore be specified and clarified and proportionate rules set out for the application of financial corrections by the Commission.
- (122) The frequency of audits on operations should be proportionate to the extent of the Union's support from the Funds and the EMFF. In particular, the number of audits carried out should be reduced where the total eligible expenditure for an operation does not exceed EUR 200 000 for the ERDF and the Cohesion Fund, and EUR 150 000 for the ESF, and EUR 100 000 for the EMFF. Nevertheless, it should be possible to carry out audits at any time where there is evidence of an irregularity or fraud, or, following closure of a completed operation, as part of an audit sample. The Commission should be able to review the audit trail of the audit authority or take part in on-the-spot audits of the audit authority. Where the Commission does not obtain the necessary assurance as to the effective functioning of the audit authority by those means, the Commission should be able to carry out a re-performance of the audit activity where this is in accordance with internationally accepted audit standards. In order that the level of auditing by the Commission is proportionate to the risk, the Commission should be able to reduce its audit work in relation to operational programmes where there are no significant deficiencies or where the audit authority can be relied on. In order to reduce the administrative burden on beneficiaries, specific rules should be introduced to reduce the risk of overlap between audits of the same operations by various institutions, namely the European Court of Auditors, the Commission and the audit authority.
- (123) In order to supplement and amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of a European code of conduct on partnership, supplements and amendments of Sections 4 and 7 of the CSF, criteria for determining the level of financial correction to be applied, specific rules on the purchase of land and combination of technical support with financial instruments, the role, liabilities and responsibility of bodies implementing financial instruments, the management and control of financial instruments, the withdrawal of payments to financial instruments and the consequent adjustments in respect of applications for payments, the establishment of a system of capitalisation of annual instalments for financial instruments, the specific rules setting out the criteria for determining management costs and fees on the basis of performance and the applicable thresholds as well as rules for the reimbursement of capitalised management costs and fees for equity-based instruments and micro-credit, the adjustment of the flat rate for net revenue generating operations in specific sectors, as well as the establishment of a flat rate for certain sectors or subsectors within the fields of ICT, research, development and innovation and energy efficiency and adding sectors or subsectors, the methodology for the calculation of the discounted net revenue for net revenue-generating operations, additional rules on the replacement of a beneficiary under PPP operations, minimum requirements to be included in PPP agreements which are necessary for the application of a derogation concerning eligibility of expenditure, the definition of the flat rate applied to indirect costs for grants based on existing methods and corresponding rates applicable in Union policies, the methodology to be used in carrying out the quality review of a major project, the criteria for determining the cases of irregularity to be reported, the data to be provided and the conditions and procedures to be applied to determine whether amounts which are irrecoverable shall be reimbursed by the responsibilities of Member States, the data to be recorded and stored in computerised form within monitoring systems established by managing authorities, the minimum requirements for audit trails, the scope and content of audits and the methodology for sampling, the use of data collected during audits, and the criteria for determining serious deficiencies in the effective functioning of management and control systems, for establishing the level of financial correction to be applied and for applying flat rates or extrapolated financial corrections. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (124) The Commission should be empowered to adopt, by means of implementing acts, as regards all the ESI Funds, decisions approving the elements of Partnership Agreements and their amendments, decisions approving elements of the revised Partnership Agreement, decisions on the programmes and priorities which have achieved their milestones and can benefit from the allocation of the performance reserve, decisions on the amendment of programmes as consequence of corrective actions concerning the transfer of financial allocations to other programmes, decisions on annual plans of actions to be financed from technical assistance at the initiative of the Commission, and, in the case of decommitment, decisions to amend decisions adopting programmes; and as regards the ERDF, the ESF and the Cohesion Fund, decisions identifying the regions and Member States fulfilling the Investment for growth and jobs criteria, decisions setting out the annual breakdown of commitment appropriations to the Member States, decisions setting out the amount to be transferred from

each Member State's Cohesion Fund allocation to the CEF, decisions setting out the amount to be transferred from each Member State's Structural Funds allocation to aid for the most deprived, decisions accepting transfers of parts of appropriations for the European territorial cooperation goal to the Investment for growth and jobs goal, decisions whether or not to carry out a financial correction in the case of

non-compliance with additionality, decisions adopting and amending operational programmes, decisions refusing the financial contribution to a major project, decisions on the approval of a financial contribution to a selected major project and the extension of the period for the realisation of the condition related to the approval of major projects and decisions on joint action plans; and as regards the ERDF, the ESF, the Cohesion Fund and the EMFF, decisions on non-acceptance of the accounts and the amount chargeable if the accounts were not accepted, decisions suspending interim payments and decisions on financial corrections.

- (125) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the model to be used when submitting the progress report, the model of operational programme for the Funds, methodology to be used in carrying out the cost-benefit analysis on major projects, the format for information on major projects, the model for the joint action plan, the model of the annual and final implementation reports, the frequency of the reporting of irregularities and the reporting format to be used, the model for the management declaration, and the models for the audit strategy, opinion and annual control report. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹⁾.
- (126) In order to ensure the necessary input and better involvement of Member States when the Commission exercises its implementing powers with regard to this Regulation in certain particularly sensitive policy areas relating to the ESI Funds and in order to strengthen the Member States' role in adopting uniform conditions in such areas or other executive measures with substantial implications or with a potentially significant impact on either the national economy, the national budget or on the proper functioning of the public administration of the Member States, the implementing

acts relating to the methodology for providing information on the support for climate change objectives, the detailed arrangements to ensure a consistent approach for determining in the performance framework the milestones and targets for each priority and for assessing the achievement of the milestones and targets, standard terms and conditions for monitoring of financial instruments, the detailed arrangements for the transfer and management of programme contributions managed by the bodies implementing financial instruments, a model of the funding agreement concerning the joint uncapped guarantee and securitisation financial instruments in favour of SMEs, the models to be used when submitting additional information concerning financial instruments with the applications for payments to the Commission and when reporting on financial instruments to the Commission, the terms and conditions for the electronic data exchange system for management and control, the nomenclature, based on which the categories of intervention are to be defined concerning

the priority axis in operational programmes, the format for notification of the selected major project, the technical characteristics of information and communication measures for the operation and instructions for creating the emblem and the definition of its standard colours, the model to be used when submitting financial data to the Commission for monitoring purposes, detailed rules on the exchange of information between beneficiaries and managing authorities, certifying authorities, audit authorities and intermediate bodies, the model for the report and the opinion of the independent audit body and the description of the functions and procedures in place for the managing authorities and, where appropriate, of the certifying authorities, the technical specifications of the management and control system, the model for payment applications and the model for the accounts should be adopted in accordance with the examination procedure as established in Article 5 of Regulation (EU) No 182/2011.

- (127) For certain implementing acts to be adopted in accordance with the examination procedure laid down in Article 5 of Regulation (EU) No 182/2011 the potential impact and implications are of such high significance to Member States that an exception from the general rule is justified. Accordingly, where no opinion is delivered by the committee, the Commission should not adopt the draft implementing act. Those implementing acts relate to setting out the methodology for providing information on the support for climate change objectives; determining the methodology for milestones and targets with regard to the performance framework; establishing the standard terms and conditions in relation to financial instruments; laying down the detailed arrangements for the transfer and management of programme contributions with regard

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

to certain financial instruments; adopting a model of the funding agreement concerning the joint uncapped guarantee and securitisation financial instruments in favour of SMEs; establishing the model to be used when reporting on financial instruments to the Commission; determining the nomenclature, based on which the categories of intervention can be defined concerning the priority axis in operational programmes; concerning the technical characteristics of information and communication measures for the operation and instructions for creating the emblem and a definition of the standard colours; laying down the technical specifications of recording and data-storing in relation to the management and control system. The third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 should therefore apply to those implementing acts.

(128) Since this Regulation replaces Regulation (EC) No 1083/2006, that Regulation should therefore be repealed. Nevertheless, this Regulation should not affect either the continuation or modification of assistance approved by the Commission on the basis of Regulation (EC) No 1083/2006 or any other legislation applying to that assistance on 31 December 2013. Applications made or approved under Regulation (EC) No 1083/2006 should therefore remain valid. Special transitional rules should be also laid down by way of derogation from point (b) of Article 59(1) of Regulation (EC) No 1083/2006 as to when a managing authority can carry out the functions of the certifying authority for operational programmes, implemented under the previous legislative framework, for the purposes of the Commission assessment in accordance with Article 73(3) of the Regulation (EC) No 1083/2006 when applying Article 123(5) of this Regulation and concerning the approval procedure of major projects under point (a) of Article 102(1) of this Regulation.

(129) Since the objective of this Regulation, namely to strengthen economic, social and territorial cohesion cannot be sufficiently achieved by the Member States by reason of the extent of the disparities between the levels of development of the various regions and the backwardness of the least favoured regions and the limit on the financial resources of the Member States and regions, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. 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.

(130) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

PART ONE

SUBJECT-MATTER AND DEFINITIONS

Article 1

Subject-matter

This Regulation lays down the common rules applicable to the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), which operate under a common framework (the 'European Structural and Investment' - 'ESI Funds'). It also lays down the provisions necessary to ensure the effectiveness of the ESI Funds and their coordination with one another and with other Union instruments. The common rules applying to the ESI Funds are set out in Part Two.

Part Three lays down the general rules governing the ERDF, the ESF (together referred to as the 'Structural Funds') and the Cohesion Fund concerning the tasks, priority objectives and organisation of the Structural Funds and the Cohesion Fund (the 'Funds'), the criteria that Member States and regions are required to fulfil in order to be eligible for support from the Funds, the financial resources available and the criteria for their allocation.

Part Four lays down general rules applicable to the Funds and the EMFF on management and control, financial management, accounts and financial corrections.

The rules set out in this Regulation shall apply without prejudice to the provisions laid down in Regulation (EU) No 1306/2013 of the European Parliament and of the Council⁽¹⁾ and to the specific provisions laid down in the following Regulations (the 'Fund-specific Regulations') in accordance with the fifth paragraph of this Article:

- (1) Regulation (EU) No 1301/2013 (the 'ERDF Regulation');
 - (2) Regulation (EU) No 1304/2013 (the 'ESF Regulation');
 - (3) Regulation (EU) No 1300/2013 (the 'CF Regulation');
 - (4) Regulation (EU) No 1299/2013 (the 'ETC Regulation');
 - (5) Regulation (EU) No 1305/2013 (the 'EAFRD Regulation');
- and

⁽¹⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agriculture policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (See page 549 of this Official Journal).

(6) a future Union legal act establishing the conditions for the financial support for maritime and fisheries policy for the programming period 2014 - 2020 (the 'EMFF Regulation').

Part Two of this Regulation shall apply to all the ESI Funds except when it explicitly allows for derogations. Parts Three and Four of this Regulation shall establish complementary rules to Part Two that apply respectively to the Funds and to the Funds and the EMFF and may explicitly allow for derogations in the Fund-specific Regulations concerned. The Fund-specific Regulations may establish complementary rules to Part Two of this Regulation for the Funds and to Part Three of this Regulation for the Funds and to Part Four of this Regulation for the Funds and the EMFF. The complementary rules in the Fund-specific Regulations shall not be in contradiction with Parts Two, Three or Four of this Regulation. In case of doubt about the application between provisions, Part Two of this Regulation shall prevail over the Fund-specific rules, and Parts Two, Three and Four of this Regulation shall prevail over the Fund-specific Regulations.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'Union strategy for smart, sustainable and inclusive growth' means the targets and shared objectives guiding the action of Member States and the Union set out in the Conclusions adopted by the European Council of 17 June 2010 as Annex I (New European Strategy for Jobs and Growth, EU Headline Targets), Council Recommendation of 13 July 2010⁽¹⁾ and in Council Decision 2010/707/EU⁽²⁾, and any revision of such targets and shared objectives;
- (2) 'a strategic policy framework' means a document or a set of documents established at national or regional level, which sets out a limited number of coherent priorities established on the basis of evidence and a timeframe for the implementation of those priorities and which may include a monitoring mechanism;
- (3) 'smart specialisation strategy' means the national or regional innovation strategies which set priorities in order to build competitive advantage by developing and matching research and innovation own strengths to business needs in order to address emerging opportunities and market developments in a coherent manner, while avoiding duplication and fragmentation of efforts; a smart specialisation strategy may take the form of, or be included in, a national or regional research and innovation (R&I) strategic policy framework;
- (4) 'Fund-specific rules' means the provisions laid down in, or established on the basis of, Part Three or Part Four of this Regulation or a Regulation governing one or more of the ESI Funds listed in the fourth paragraph of Article 1;
- (5) 'programming' means the process of organisation, decision-making and allocation of financial resources in several stages, with the involvement of partners in accordance with Article 5, intended to implement, on a multi-annual basis, joint action by the Union and the Member States to achieve the objectives of the Union strategy for smart, sustainable and inclusive growth;
- (6) 'programme' means an 'operational programme' as referred to in Part Three or Part Four of this Regulation and in the EMFF Regulation, and 'rural development programme' as referred to in the EAFRD Regulation;
- (7) 'programme area' means a geographical area covered by a specific programme or, in the case of a programme covering more than one category of region, the geographical area corresponding to each separate category of region;
- (8) 'priority' in Parts Two and Four of this Regulation means the 'priority axis' referred to in Part Three of this Regulation for ERDF, ESF and the Cohesion Fund and the 'Union priority' referred to in the EMFF Regulation and in the EAFRD Regulation;
- (9) 'operation' means a project, contract, action or group of projects selected by the managing authorities of the programmes concerned, or under their responsibility, that contributes to the objectives of a priority or priorities; in the context of financial instruments, an operation is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by those financial instruments;
- (10) 'beneficiary' means a public or private body and, for the purposes of the EAFRD Regulation and of the EMFF Regulation only, a natural person, responsible for initiating or both initiating and implementing operations; and in the context of State aid schemes, as defined in point 13 of this Article, the body which receives the aid; and in the context of financial instruments under Title IV of Part Two of this Regulation, it means the body that implements the financial instrument or the fund of funds as appropriate;
- (11) 'financial instruments' means financial instruments as defined in the Financial Regulation, save where otherwise provided in this Regulation;

⁽¹⁾ Council Recommendation of 13 July 2010 on broad guidelines for the economic policies of the Member States and of the Union (OJ L 191, 23.7.2010, p. 28).

⁽²⁾ Council Decision 2010/707/EU of 21 October 2010 on guidelines for the employment policies of the Member States (OJ L 308, 24.11.2010, p. 46).

- (12) 'final recipient' means a legal or natural person receiving financial support from a financial instrument;
- (13) 'State aid' means aid falling under Article 107(1) TFEU which shall be deemed for the purposes of this Regulation also to include de minimis aid within the meaning of Commission Regulation (EC) No 1998/2006 ⁽¹⁾, Commission Regulation (EC) No 1535/2007 ⁽²⁾ and Commission Regulation (EC) No 875/2007 ⁽³⁾;
- (14) 'completed operation' means an operation that has been physically completed or fully implemented and in respect of which all related payments have been made by beneficiaries and the corresponding public contribution has been paid to the beneficiaries;
- (15) 'public expenditure' means any public contribution to the financing of operations the source of which is the budget of national, regional or local public authorities, the budget of the Union related to the ESI Funds, the budget of public law bodies or the budget of associations of public authorities or of public law bodies and, for the purpose of determining the co-financing rate for ESF programmes or priorities, may include any financial resources collectively contributed by employers and workers;
- (16) 'public law body' means any body governed by public law within the meaning of point 9 of Article 1 of Directive 2004/18/EC of the European Parliament and of the Council ⁽⁴⁾ and any European grouping of territorial cooperation (EGTC) established in accordance with Regulation (EC) No 1082/2006 of the European Parliament and of the Council ⁽⁵⁾, regardless of whether the EGTC is considered to be a public law body or a private law body under the relevant national implementing provisions;
- (17) 'document' means a paper or an electronic medium bearing information of relevance in the context of this Regulation;
- (18) 'intermediate body' means any public or private body which acts under the responsibility of a managing or certifying authority, or which carries out duties on behalf of such an authority, in relation to beneficiaries implementing operations;
- (19) 'community-led local development strategy' means a coherent set of operations the purpose of which is to meet local objectives and needs, and which contributes to achieving the Union strategy for smart, sustainable and inclusive growth, and which is designed and implemented by a local action group;
- (20) 'Partnership Agreement' means a document prepared by a Member State with the involvement of partners in line with the multi-level governance approach, which sets out that Member State's strategy, priorities and arrangements for using the ESI Funds in an effective and efficient way so as to pursue the Union strategy for smart, sustainable and inclusive growth, and which is approved by the Commission following assessment and dialogue with the Member State concerned;
- (21) 'category of regions' means the categorisation of regions as 'less developed regions', 'transition regions' or 'more developed regions' in accordance with Article 90(2);
- (22) 'request for payment' means a payment application or declaration of expenditure submitted by the Member State to the Commission;
- (23) 'EIB' means the European Investment Bank, the European Investment Fund or any subsidiary of the European Investment Bank;
- (24) 'Public private partnerships' (PPPs) means forms of cooperation between public bodies and the private sector, which aim to improve the delivery of investments in infrastructure projects or other types of operations, delivering public services through risk sharing, pooling of private sector expertise or additional sources of capital;
- (25) 'PPP operation' means an operation which is implemented or intended to be implemented under a public-private-partnership structure;
- (26) 'escrow account' means a bank account covered by a written agreement between a managing authority or an intermediate body and the body implementing a financial instrument, or, in the case of a PPP operation, a written agreement between a public body beneficiary and the private partner approved by the managing authority or an intermediate body, set up specifically to hold funds to be paid out after the eligibility period, exclusively for the purposes provided for in point (c) of Article 42(1), Article 42(2), Article 42(3) and Article 64, or a bank account set up on terms providing equivalent guarantees on the payments out of the funds;
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- ⁽¹⁾ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid (OJ L 379, 28.12.2006, p. 5).
- ⁽²⁾ Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the sector of agricultural production (OJ L 337, 21.12.2007, p. 35).
- ⁽³⁾ Commission Regulation (EC) No 875/2007 of 24 July 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the fisheries sector and amending Regulation (EC) No 1860/2004 (OJ L 193, 25.7.2007, p. 6).
- ⁽⁴⁾ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).
- ⁽⁵⁾ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

- (27) 'fund of funds' means a fund set up with the objective of contributing support from a programme or programmes to several financial instruments. Where financial instruments are implemented through a fund of funds, the body implementing the fund of funds shall be considered to be the only beneficiary within the meaning of point 10 of this Article;
- (28) 'SME' means a micro, small or medium sized enterprise as defined in Commission Recommendation 2003/361/EC ⁽¹⁾;
- (29) 'accounting year', means, for the purposes of Part Three and Part Four, the period from 1 July to 30 June, except for the first accounting year of the programming period, in respect of which it means the period from the start date for eligibility of expenditure until 30 June 2015. The final accounting year shall be from 1 July 2023 to 30 June 2024;
- (30) 'financial year', means, for the purposes of Part Three and Part Four, the period from 1 January to 31 December;
- (31) 'macroregional strategy' means an integrated framework endorsed by the European Council, which may be supported by the ESI Funds among others, to address common challenges faced by a defined geographical area relating to Member States and third countries located in the same geographical area which thereby benefit from strengthened cooperation contributing to achievement of economic, social and territorial cohesion;
- (32) 'sea basin strategy' means a structured framework of cooperation in relation to a given geographical area, developed by Union institutions, Member States, their regions and where appropriate third countries sharing a sea basin; a sea basin strategy takes into account the geographic, climatic, economic and political specificities of the sea basin;
- (33) 'applicable ex ante conditionality' means a concrete and precisely pre-defined critical factor, which is a prerequisite for and has a direct and genuine link to, and direct impact on, the effective and efficient achievement of a specific objective for an investment priority or a Union priority;
- (34) 'specific objective' means the result to which an investment priority or Union priority contributes in a specific national or regional context through actions or measures undertaken within such a priority;
- (35) 'relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU' and 'relevant Council recommendations adopted in accordance with Article 148(4) TFEU' mean recommendations relating to structural challenges which it is appropriate to address through multiannual investments that fall directly within the scope of the ESI Funds as set out in the Fund-specific Regulations;
- (36) 'irregularity' means any breach of Union law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union.
- (37) 'economic operator' means any natural or legal person or other entity taking part in the implementation of assistance from the ESI Funds, with the exception of a Member State exercising its prerogatives as a public authority;
- (38) 'systemic irregularity' means any irregularity, which may be of a recurring nature, with a high probability of occurrence in similar types of operations, which results from a serious deficiency in the effective functioning of a management and control system, including a failure to establish appropriate procedures in accordance with this Regulation and the Fund-specific rules;
- (39) 'serious deficiency in the effective functioning of a management and control system' means, for the purposes of implementation of the Funds and the EMFF under Part Four, a deficiency for which substantial improvements in the system are required, which exposes the Funds and the EMFF to a significant risk of irregularities, and the existence of which is incompatible with an unqualified audit opinion on the functioning of the management and control system.

Article 3

Calculation of time limits for Commission decisions

Where, pursuant to Articles 16(2) and (3), 29(3), 30 (2) and (3), 102(2), 107(2), and 108(3), a time limit is set for the Commission to adopt or amend a decision, by means of an implementing act, that time limit shall not include the period which starts on the date following the date on which the Commission sends its observations to the Member State and lasts until the Member State responds to the observations.

⁽¹⁾ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

PART TWO**COMMON PROVISIONS APPLICABLE TO THE ESI FUNDS**

TITLE I

PRINCIPLES OF UNION SUPPORT FOR THE ESI FUNDS*Article 4***General principles**

1. The ESI Funds shall provide support, through multi-annual programmes, which complements national, regional and local intervention, to deliver the Union strategy for smart, sustainable and inclusive growth, as well as the Fund-specific missions pursuant to their Treaty-based objectives, including economic, social and territorial cohesion taking account of the relevant Europe 2020 Integrated Guidelines and the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU, and of the relevant Council recommendations adopted in accordance with Article 148(4) TFEU and where appropriate at national level, the National Reform Programme.

2. The Commission and the Member States shall ensure, taking account of the specific context of each Member State, that support from the ESI Funds is consistent with the relevant policies, horizontal principles referred to in Articles 5, 7 and 8 and priorities of the Union, and that it is complementary to other instruments of the Union.

3. Support from the ESI Funds shall be implemented in close cooperation between the Commission and the Member States in accordance with the principle of subsidiarity.

4. Member States, at the appropriate territorial level, in accordance with their institutional, legal and financial framework, and the bodies designated by them for that purpose shall be responsible for preparing and implementing programmes and carrying out their tasks, in partnership with the relevant partners referred to in Article 5, in compliance with this Regulation and the Fund-specific rules.

5. Arrangements for the implementation and use of the ESI Funds, and in particular the financial and administrative resources required for the preparation and implementation of programmes, in relation to monitoring, reporting, evaluation, management and control, shall respect the principle of proportionality having regard to the level of support allocated and shall take into account the overall aim of reducing the administrative burden on bodies involved in the management and control of the programmes.

6. In accordance with their respective responsibilities, the Commission and the Member States shall ensure coordination between the ESI Funds and between the ESI Funds and other relevant Union policies, strategies and instruments, including those in the framework of the Union's external action.

7. The part of the budget of the Union allocated to the ESI Funds shall be implemented within the framework of shared management between the Member States and the Commission, in accordance with Article 59 of the Financial Regulation, with the exception of the amount of support from the Cohesion Fund transferred to the CEF referred to in Article 92(6) of this Regulation, innovative actions at the initiative of the Commission under Article 8 of the ERDF Regulation, technical assistance at the initiative of the Commission and the support for direct management under the EMFF Regulation.

8. The Commission and the Member States shall respect the principle of sound financial management in accordance with Article 30 of the Financial Regulation.

9. The Commission and the Member States shall ensure the effectiveness of the ESI Funds during preparation and implementation, in relation to monitoring, reporting and evaluation.

10. The Commission and the Member States shall carry out their respective roles in relation to the ESI Funds with the aim of reducing the administrative burden on beneficiaries.

*Article 5***Partnership and multi-level governance**

1. For the Partnership Agreement and each programme, each Member State shall in accordance with its institutional and legal framework organise a partnership with the competent regional and local authorities. The partnership shall also include the following partners:

(a) competent urban and other public authorities;

(b) economic and social partners; and

(c) relevant bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting social inclusion, gender equality and non-discrimination.

2. In accordance with the multi-level governance approach, the partners referred to in paragraph 1 shall be involved by Member States in the preparation of Partnership Agreements and progress reports and throughout the preparation and implementation of programmes, including through participation in the monitoring committees for programmes in accordance with Article 48.

3. The Commission shall be empowered to adopt a delegated act in accordance with Article 149 to provide for a European code of conduct on partnership (the 'code of conduct') in order to support and facilitate Member States in the organisation of

partnership in accordance with paragraphs 1 and 2 of this Article. The code of conduct shall set out the framework within which the Member States, in accordance with their institutional and legal framework as well as their national and regional competences, shall pursue the implementation of partnership. The code of conduct, while fully respecting the principles of subsidiarity and proportionality, shall lay down the following elements:

- (a) the main principles concerning transparent procedures to be followed for the identification of the relevant partners including, where appropriate, their umbrella organisations in order to facilitate Member States in designating the most representative relevant partners, in accordance with their institutional and legal framework;
- (b) the main principles and good practices concerning the involvement of the different categories of relevant partners set out in paragraph 1 in the preparation of the Partnership Agreement and programmes, the information to be provided concerning their involvement, and at the various stages of implementation;
- (c) the good practices concerning the formulation of the rules of membership and internal procedures of monitoring committees to be decided, as appropriate, by the Member States or the monitoring committees of programmes in accordance with the relevant provisions of this Regulation and the Fund-specific rules;
- (d) the main objectives and good practices in cases where the managing authority involves the relevant partners in the preparation of calls for proposals and in particular good practices for avoiding potential conflicts of interest in cases where there is a possibility of relevant partners also being potential beneficiaries, and for the involvement of the relevant partners in the preparation of progress reports and in relation to monitoring and evaluation of programmes in accordance with the relevant provisions of this Regulation and the Fund-specific rules;
- (e) the indicative areas, themes and good practices concerning how the competent authorities of the Member States may use the ESI Funds including technical assistance to strengthen the institutional capacity of relevant partners in accordance with the relevant provisions of this Regulation and the Fund-specific rules;
- (f) the role of the Commission in the dissemination of good practices;
- (g) the main principles and good practices that are apt to facilitate the Member States' assessment of the implementation of partnership and its added value.

The provisions of the code of conduct shall not in any way contradict the relevant provisions of this Regulation or the Fund-specific rules.

4. The Commission shall notify the delegated act, referred to in paragraph 3 of this Article, on the European code of conduct on partnership, simultaneously to the European Parliament and to the Council by 18 April 2014. That delegated act shall not specify a date of application that is earlier than the date of its adoption.

5. An infringement of any obligation imposed on Member States either by this Article or by the delegated act adopted pursuant to paragraph 3 of this Article, shall not constitute an irregularity leading to a financial correction pursuant to Article 85.

6. At least once a year, for each ESI Fund, the Commission shall consult the organisations which represent the partners at Union level on the implementation of support from that ESI Fund and shall report to the European Parliament and the Council on the outcome.

Article 6

Compliance with Union and national law

Operations supported by the ESI Funds shall comply with applicable Union law and the national law relating to its application ('applicable law').

Article 7

Promotion of equality between men and women and non-discrimination

The Member States and the Commission shall ensure that equality between men and women and the integration of gender perspective are taken into account and promoted throughout the preparation and implementation of programmes, including in relation to monitoring, reporting and evaluation.

The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation and implementation of programmes. In particular, accessibility for persons with disabilities shall be taken into account throughout the preparation and implementation of programmes.

Article 8

Sustainable development

The objectives of the ESI Funds shall be pursued in line with the principle of sustainable development and with the Union's promotion of the aim of preserving, protecting and improving the quality of the environment, as set out in Article 11 and Article 191(1) TFEU, taking into account the polluter pays principle.

The Member States and the Commission shall ensure that environmental protection requirements, resource efficiency, climate change mitigation and adaptation, biodiversity, disaster resilience, and risk prevention and management are promoted in the preparation and implementation of Partnership Agreements and programmes. Member States shall provide information on the support for climate change objectives using a methodology based on the categories of intervention, focus areas or measures, as appropriate, for each of the ESI Funds. That methodology shall consist of assigning a specific weighting to the support provided under the ESI Funds at a level which reflects the extent to which such support makes a contribution to climate change mitigation and adaptation goals. The specific weighting assigned shall be differentiated on the basis of whether the support makes a significant or a moderate contribution towards climate change objectives. Where the support does not contribute towards those objectives or the contribution is insignificant, a weighting of zero shall be assigned. In the case of the ERDF, the ESF and the Cohesion Fund weightings shall be attached to categories of intervention established within the nomenclature adopted by the Commission. In the case of the EAFRD weightings shall be attached to focus areas set out in the EAFRD Regulation and in the case of the EMFF to measures set out in the EMFF Regulation.

The Commission shall set out uniform conditions for each of the ESI Funds for the application of the methodology referred to in the second paragraph by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 150(3).

TITLE II

STRATEGIC APPROACH

CHAPTER I

Thematic objectives for the ESI Funds and Common Strategic Framework

Article 9

Thematic objectives

In order to contribute to the Union strategy for smart, sustainable and inclusive growth as well as the Fund-specific missions pursuant to their Treaty-based objectives, including economic, social and territorial cohesion, each ESI Fund shall support the following thematic objectives:

- (1) strengthening research, technological development and innovation;
- (2) enhancing access to, and use and quality of, ICT;
- (3) enhancing the competitiveness of SMEs, of the agricultural sector (for the EAFRD) and of the fishery and aquaculture sector (for the EMFF);
- (4) supporting the shift towards a low-carbon economy in all sectors;
- (5) promoting climate change adaptation, risk prevention and management;
- (6) preserving and protecting the environment and promoting resource efficiency;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures;
- (8) promoting sustainable and quality employment and supporting labour mobility;
- (9) promoting social inclusion, combating poverty and any discrimination;
- (10) investing in education, training and vocational training for skills and lifelong learning;
- (11) enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

Thematic objectives shall be translated into priorities that are specific to each of the ESI Funds and are set out in the Fund-specific rules.

Article 10

Common Strategic Framework

1. In order to promote the harmonious, balanced and sustainable development of the Union, a Common Strategic Framework ('CSF') is hereby established, as set out in Annex I. The CSF establishes strategic guiding principles to facilitate the programming process and the sectoral and territorial coordination of Union intervention under the ESI Funds and with other relevant Union policies and instruments, in line with the targets and objectives of the Union strategy for smart, sustainable and inclusive growth, taking into account the key territorial challenges of the various types of territories.

2. The strategic guiding principles as set out in the CSF shall be established in line with the purpose and within the scope of the support provided by each ESI Fund, and in line with the rules governing the operation of each ESI Fund, as defined in this Regulation and the Fund-specific rules. The CSF shall not impose additional obligations upon Member States beyond those set out within the framework of the relevant sectoral Union policies.

3. The CSF shall facilitate the preparation of the Partnership Agreement and programmes in accordance with the principles of proportionality and subsidiarity and taking into account national and regional competences, in order for the specific and appropriate policy and coordination measures to be decided.

*Article 11***Content**

The CSF shall establish:

- (a) mechanisms for ensuring the contribution of the ESI Funds to the Union strategy for smart, sustainable and inclusive growth, and the coherence and consistency of the programming of the ESI Funds in relation to the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU, the relevant Council recommendations adopted in accordance with 148(4) TFEU, and where appropriate at national level, to the National Reform Programme;
- (b) arrangements to promote an integrated use of the ESI Funds;
- (c) arrangements for coordination between the ESI Funds and other relevant Union policies and instruments, including external instruments for cooperation;
- (d) horizontal principles referred to in Articles 5, 7 and 8 and cross-cutting policy objectives for the implementation of the ESI Funds;
- (e) arrangements to address the key territorial challenges for urban, rural, coastal and fisheries areas, the demographic challenges of regions or specific needs of geographical areas which suffer from severe and permanent natural or demographic handicaps as referred to in Article 174 TFEU, and the specific challenges of outermost regions within the meaning of Article 349 TFEU;
- (f) priority areas for cooperation activities under the ESI Funds, where appropriate, taking account of macro-regional and sea basin strategies.

*Article 12***Review**

Where there are major changes in the social and economic situation in the Union, or changes are made to the Union strategy for smart, sustainable and inclusive growth, the Commission may submit a proposal to review the CSF, or the European Parliament or the Council, acting in accordance with Articles 225 or 241 TFEU respectively, may request the Commission to submit such a proposal.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 in order to supplement or amend Sections 4 and 7 of Annex I where it is necessary to take account of changes in the Union policies or instruments referred to in Section 4 or changes in the cooperation activities referred to in Section 7 or to take account of the introduction of new Union policies, instruments or cooperation activities.

*Article 13***Guidance for beneficiaries**

1. The Commission shall prepare guidance on how to effectively access and use the ESI Funds, and on how to exploit complementarities with other instruments of relevant Union policies.
2. The guidance shall be drawn up by 30 June 2014 and shall provide, for each thematic objective, an overview of the available relevant instruments at Union level with detailed sources of information, examples of good practices for combining available funding instruments within and across policy areas, a description of relevant authorities and bodies involved in the management of each instrument, a checklist for potential beneficiaries to help them to identify the most appropriate funding sources.
3. The guidance shall be made public on the websites of the relevant Directorate Generals of the Commission. The Commission and managing authorities, acting in accordance with the Fund-specific rules, and in cooperation with the Committee of the Regions, shall ensure dissemination of the guidance to potential beneficiaries.

*CHAPTER II***Partnership Agreement***Article 14***Preparation of the Partnership Agreement**

1. Each Member State shall prepare a Partnership Agreement for the period from 1 January 2014 to 31 December 2020.
2. The Partnership Agreement shall be drawn up by Member States in cooperation with the partners referred to in Article 5. The Partnership Agreement shall be prepared in dialogue with the Commission. The Member States shall draw up the Partnership Agreement based on procedures that are transparent for the public, and in accordance with their institutional and legal framework.
3. The Partnership Agreement shall cover all support from the ESI Funds in the Member State concerned.
4. Each Member State shall submit its Partnership Agreement to the Commission by 22 April 2014.
5. Where one or more of the Fund-specific Regulations does not enter into force or is not expected to enter into force by 22 February 2014, the Partnership Agreement submitted by a Member State as referred to in paragraph 4 shall not be required to contain the elements referred to in points (a)(ii), (iii), (iv) and (vi) of Article 15(1) for the ESI Fund affected by such a delay or expected delay in the entry into force of the Fund-specific Regulation.

Article 15

Content of the Partnership Agreement

1. The Partnership Agreement shall set out:

(a) arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth as well as the Fund-specific missions pursuant to their Treaty-based objectives, including economic, social and territorial cohesion, including:

(i) an analysis of disparities, development needs and growth potential with reference to the thematic objectives and the territorial challenges, and taking account of the National Reform Programme, where appropriate, and relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and relevant Council recommendations adopted in accordance with Article 148(4) TFEU;

(ii) a summary of the ex ante evaluations of the programmes, or key findings of the ex ante evaluation of the Partnership Agreement, where the latter evaluation is undertaken by the Member State at its own initiative;

(iii) selected thematic objectives, and for each of the selected thematic objectives a summary of the main results expected for each of the ESI Funds;

(iv) the indicative allocation of support by the Union by thematic objective at national level for each of the ESI Funds, as well as the total indicative amount of support envisaged for climate change objectives;

(v) the application of the horizontal principles referred to in Articles 5, 7 and 8 and policy objectives for the implementation of the ESI Funds;

(vi) the list of the programmes under the ERDF, the ESF and the Cohesion Fund, except those under the European territorial cooperation goal, and of the programmes of the EAFRD and the EMFF, with the respective indicative allocations by ESI Fund and by year;

(vii) information on the allocation related to the performance reserve, broken down by ESI Fund and, where appropriate, by category of region, and on the amounts excluded for the purpose of calculating the performance reserve in accordance with Article 20;

(b) arrangements to ensure effective implementation of the ESI Funds, including:

(i) arrangements, in line with the institutional framework of the Member States, that ensure coordination between the ESI Funds and other Union and national funding instruments and with the EIB;

(ii) the information required for ex ante verification of compliance with the rules on additionality as they are defined in Part Three;

(iii) a summary of the assessment of the fulfilment of applicable ex ante conditionalities in accordance with Article 19 and Annex XI at national level and, in the event that the applicable ex ante conditionalities are not fulfilled, of the actions to be taken, the bodies responsible and the timetable for implementation of those actions;

(iv) the methodology and mechanisms to ensure consistency in the functioning of the performance framework in accordance with Article 21;

(v) an assessment of whether there is a need to reinforce the administrative capacity of the authorities involved in the management and control of the programmes and, where appropriate, of beneficiaries as well as, where necessary, a summary of actions to be taken for that purpose;

(vi) a summary of the actions planned in the programmes, including an indicative timetable for achievement of a reduction in the administrative burden on beneficiaries;

(c) arrangements for the partnership principle as referred in Article 5;

(d) an indicative list of the partners referred to in Article 5 and a summary of the actions taken to involve them in accordance with Article 5 and of their role in the preparation of the Partnership Agreement and the progress report as referred to in Article 52.

2. The Partnership Agreement shall also indicate:

(a) an integrated approach to territorial development supported by the ESI Funds or a summary of the integrated approaches to territorial development based on the content of the programmes, setting out:

(i) the arrangements to ensure an integrated approach to the use of the ESI Funds for the territorial development of specific subregional areas, in particular the implementation arrangements for Articles 32, 33 and 36 accompanied by the principles for identifying the urban areas where integrated actions for sustainable urban development are to be implemented;

- (ii) the main priority areas for cooperation under the ESI Funds, taking account, where appropriate, of macro-regional strategies and sea basin strategies;
 - (iii) where appropriate, an integrated approach to addressing the specific needs of geographical areas most affected by poverty or of target groups at highest risk of discrimination or social exclusion, with special regard to marginalised communities, persons with disabilities, the long term unemployed and young people not in employment, education or training;
 - (iv) where appropriate, an integrated approach to address the demographic challenges of regions or specific needs of geographical areas which suffer from severe and permanent natural or demographic handicaps as referred to in Article 174 TFEU;
- (b) arrangements to ensure efficient implementation of the ESI Funds, including an assessment of the existing systems for electronic data exchange, and a summary of the actions planned to gradually permit all exchanges of information between beneficiaries, and authorities responsible for management and control of programmes, to be carried out by electronic data exchange.

Article 16

Adoption and amendment of the Partnership Agreement

1. The Commission shall assess the consistency of the Partnership Agreement with this Regulation taking account of the National Reform Programme, where appropriate, and the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and relevant Council recommendations adopted in accordance with Article 148 (4) TFEU, as well as of the ex ante evaluations of the programmes, and shall make observations within three months of the date of submission by the Member State of its Partnership Agreement. The Member State concerned shall provide all necessary additional information and, where appropriate, shall revise the Partnership Agreement.
2. The Commission shall adopt a decision, by means of implementing acts, approving the elements of the Partnership Agreement falling under Article 15(1) and those falling under Article 15(2) in the event that a Member State has made use of the provisions of Article 96(8), for the elements requiring a Commission decision under Article 96(10), no later than four months after the date of submission by the Member State of its Partnership Agreement, provided that any observations made by the Commission have been adequately taken into account. The Partnership Agreement shall not enter into force before 1 January 2014.
3. The Commission shall prepare a report on the outcome of the negotiations concerning the Partnership Agreements and the

programmes, including an overview of the key issues, for each Member State, by 31 December 2015. That report shall be submitted to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions simultaneously.

4. Where a Member State proposes an amendment to the elements of the Partnership Agreement covered by the Commission decision as referred to in paragraph 2, the Commission shall carry out an assessment in accordance with paragraph 1 and, where appropriate, shall adopt a decision, by means of implementing acts, approving the amendment within three months of the date of submission of the proposal for amendment by the Member State.

5. Where a Member State amends elements of the Partnership Agreement not covered by the Commission decision as referred to in paragraph 2, it shall notify the Commission thereof within one month of the date of the decision to make the amendment.

Article 17

Adoption of the revised Partnership Agreement in the event of delay in the entry into force of a Fund-specific Regulation

1. Where Article 14(5) applies, each Member State shall submit to the Commission a revised Partnership Agreement that includes the elements missing from the Partnership Agreement for the ESI Fund concerned, within two months of the date of entry into force of the Fund-specific Regulation that was subject to the delay.
2. The Commission shall assess the consistency of the revised Partnership Agreement with this Regulation in accordance with Article 16(1) and shall adopt a decision, by means of implementing acts, approving the revised Partnership Agreement in accordance with Article 16(2).

CHAPTER III

Thematic concentration, ex ante conditionalities and performance review

Article 18

Thematic concentration

Member States shall concentrate support, in accordance with the Fund-specific rules, on interventions that bring the greatest added value in relation to the Union strategy for smart, sustainable and inclusive growth taking into account the key territorial challenges of the various types of territories in line with the CSF, the challenges identified in the National Reform Programmes, where appropriate, and relevant country-specific recommendations under Article 121(2) TFEU and the relevant Council recommendations adopted under Article 148(4) TFEU. Provisions on thematic concentration under the Fund-specific rules shall not apply to technical assistance.

*Article 19***Ex ante conditionalities**

1. Member States shall assess in accordance with their institutional and legal framework and in the context of the preparation of the programmes and, where appropriate, the Partnership Agreement, whether the ex ante conditionalities laid down in the respective Fund-specific rules and the general ex ante conditionalities set out in Part II of Annex XI are applicable to the specific objectives pursued within the priorities of their programmes and whether the applicable ex ante conditionalities are fulfilled.

Ex ante conditionalities shall apply only to the extent and provided that they comply with the definition laid down in point (33) of Article 2 regarding the specific objectives pursued within the priorities of the programme. The assessment of applicability shall, without prejudice to the definition laid down in point (33) of Article 2, take account of the principle of proportionality in accordance with Article 4(5) having regard to the level of support allocated, where appropriate. The assessment of fulfilment shall be limited to the criteria laid down in the Fund-specific rules and in Part II of Annex XI.

2. The Partnership Agreement shall set out a summary of the assessment of the fulfilment of applicable ex ante conditionalities at national level and for those which, pursuant to the assessment referred to in paragraph 1, are not fulfilled at the date of submission of the Partnership Agreement, the actions to be taken, the bodies responsible and the timetable for the implementation of those actions. Each programme shall identify which of the ex ante conditionalities laid down in the relevant Fund-specific rules and the general ex ante conditionalities set out in Part II of Annex XI are applicable to it and, which of them, pursuant to the assessment referred to in paragraph 1, are fulfilled at the date of submission of the Partnership Agreement and programmes. Where the applicable ex ante conditionalities are not fulfilled, the programme shall contain a description of the actions to be taken, the bodies responsible and the timetable for their implementation. Member States shall fulfil those ex ante conditionalities not later than 31 December 2016 and report on their fulfilment not later than in the annual implementation report in 2017 in accordance with Article 50(4) or the progress report in 2017 in accordance with point (c) of Article 52(2).

3. The Commission shall assess the consistency and the adequacy of the information provided by the Member State on the applicability of ex ante conditionalities and on the fulfilment of applicable ex ante conditionalities in the framework of its assessment of the programmes and, where appropriate, of the Partnership Agreement.

That assessment of applicability by the Commission shall, in accordance with Article 4(5), take account of the principle of proportionality having regard to the level of support allocated, where appropriate. The assessment of fulfilment by the Commission shall be limited to the criteria laid down in the Fund-specific rules and in Part II of Annex XI, and shall respect national and regional competences to decide on the specific and adequate policy measures including the content of strategies.

4. In the event of disagreement between the Commission and a Member State on the applicability of an ex ante conditionality to the specific objective of the priorities of a programme or its fulfilment, both the applicability in accordance with the definition in point (33) of Article 2 and the non-fulfilment shall be proven by the Commission.

5. The Commission may decide, when adopting a programme, to suspend all or part of interim payments to the relevant priority of that programme pending the completion of actions referred to in paragraph 2 where necessary to avoid significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives of the priority concerned. The failure to complete actions to fulfil an applicable ex ante conditionality which has not been fulfilled at the date of submission of the Partnership Agreement and the respective programmes, by the deadline set out in paragraph 2, shall constitute a ground for suspending interim payments by the Commission to the priorities of the programme concerned that are affected. In both cases, the scope of suspension shall be proportionate, taking into account the actions to be taken and the funds at risk.

6. Paragraph 5 shall not apply in the event of agreement between the Commission and the Member State on the non-applicability of an ex ante conditionality or on the fact that an applicable ex ante conditionality has been fulfilled, as indicated by the approval of the programme and the Partnership Agreement, or in the absence of Commission observations within 60 days of the submission of the relevant report referred to in paragraph 2.

7. The Commission shall without delay lift the suspension of interim payments for a priority where a Member State has completed actions relating to the fulfilment of ex ante conditionalities applicable to the programme concerned and which had not been fulfilled at the time of the decision of the Commission on the suspension. It shall also without delay lift the suspension where, following amendment of the programme related to the priority concerned, the ex ante conditionality concerned is no longer applicable.

8. Paragraphs 1 to 7 shall not apply to programmes under the European territorial cooperation goal.

*Article 20***Performance reserve**

6 % of the resources allocated to the ERDF, ESF and the Cohesion Fund under the Investment for Growth and Jobs goal referred to in point (a) of Article 89(2) of this Regulation, as well as to the EAFRD and to measures financed under shared management in accordance with the EMFF Regulation shall constitute a performance reserve which shall be established in the Partnership Agreement and programmes and allocated to specific priorities in accordance with Article 22 of this Regulation.

The following resources are excluded for the purpose of calculating the performance reserve:

- (a) resources allocated to the YEI as defined in the operational programme in accordance with Article 18 of the ESF Regulation;
- (b) resources allocated to technical assistance at the initiative of the Commission;
- (c) resources transferred from the first pillar of the CAP to the EAFRD under Articles 7(2) and 14(1) of Regulation (EU) No 1307/2013;
- (d) transfers to the EAFRD in application of Articles 10b, 136 and 136b of Council Regulation (EC) No 73/2009 in respect of calendar years 2013 and 2014 respectively;
- (e) resources transferred to the CEF from the Cohesion Fund in accordance with Article 92(6) of this Regulation;
- (f) resources transferred to the Fund for European Aid for the Most Deprived in accordance with Article 92(7) of this Regulation;
- (g) resources allocated for innovative actions for sustainable urban development in accordance with Article 92(8) of this Regulation.

Article 21

Performance review

1. The Commission, in cooperation with the Member States, shall undertake a review of the performance of the programmes in each Member State in 2019 (the 'performance review'), with reference to the performance framework set out in the respective programmes. The method for establishing the performance framework is set out in Annex II.
2. The performance review shall examine the achievement of the milestones of the programmes at the level of priorities, on the basis of the information and the assessments presented in the annual implementation report submitted by the Member States in the year 2019.

Article 22

Application of the performance framework

1. The performance reserve shall constitute between 5 and 7 % of the allocation to each priority within a programme, with the exception of priorities dedicated to technical assistance and programmes dedicated to financial instruments in accordance with Article 39. The total amount of the performance reserve allocated by ESI Fund and category of region shall be 6 %. The amounts corresponding to the performance reserve shall be set

out in the programmes broken down by priority and, where appropriate, by ESI Fund and by category of region.

2. On the basis of the performance review, the Commission shall within two months of the receipt of the respective annual implementation reports in the year 2019 adopt a decision, by means of implementing acts, to determine for each ESI Fund and Member State, the programmes and priorities which have achieved their milestones, setting out that information by ESI Fund and by category of region, where a priority covers more than one ESI Fund or category of region.

3. The performance reserve shall be allocated only to programmes and priorities which have achieved their milestones. Where priorities have achieved their milestones the amount of the performance reserve established for the priority shall be considered to be definitively allocated on the basis of the Commission decision referred to in paragraph 2.

4. Where priorities have not achieved their milestones, the Member State shall propose the reallocation of the corresponding amount of the performance reserve to priorities set out in the Commission decision referred to in paragraph 2, and other amendments to the programme which result from the reallocation of the performance reserve, no later than three months after the adoption of the decision referred to in paragraph 2.

The Commission shall approve, in accordance with Article 30(3) and (4), the amendment of the programmes concerned. Where a Member State fails to submit the information in accordance with Article 50(5) and (6), the performance reserve for the programmes or the priorities concerned shall not be allocated to the programmes or the priorities concerned.

5. The Member State's proposal to reallocate the performance reserve shall be consistent with thematic concentration requirements and minimum allocations set out in this Regulation and the Fund-specific rules. By way of derogation, where one or more of the priorities linked to thematic concentration requirements or minimum allocations have not achieved their milestones, the Member State may propose a reallocation of the reserve, which does not comply with the aforementioned requirements and minimum allocations.

6. Where there is evidence, resulting from the performance review for a priority, that there has been a serious failure in achieving that priority's milestones relating only to the financial and output indicators and key implementation steps set out in the performance framework and that that failure is due to clearly identified implementation weaknesses, which the Commission had previously communicated pursuant to Article 50(8) following close consultations with the Member State concerned, and that Member State has failed to take the necessary corrective action to address such weaknesses, the Commission may, not earlier than five months after such communication, suspend all or part of an interim payment of a priority of a programme in accordance with the procedure laid down in the Fund-specific rules.

The Commission shall without delay lift the suspension of interim payments when the Member State has taken the necessary corrective action. Where the corrective action concerns the transfer of financial allocations to other programmes or priorities, which have achieved their milestones, the Commission shall approve, by means of an implementing act, the necessary amendment of the programmes concerned in accordance with Article 30(2). By way of derogation from Article 30(2), in such case the Commission shall decide on the amendment no later than two months after the submission of the Member State request for amendment.

7. Where the Commission, based on the examination of the final implementation report of the programme, establishes a serious failure to achieve the targets relating only to financial indicators, output indicators and key implementation steps set out in the performance framework due to clearly identified implementation weaknesses, which the Commission had previously communicated pursuant to Article 50(8) following close consultations with the Member State concerned, and the Member State has failed to take the necessary corrective action to address such weaknesses, the Commission may notwithstanding Article 85 apply financial corrections in respect of the priorities concerned in accordance with the Fund-specific rules.

When applying financial corrections, the Commission shall take into account, with due regard to the principle of proportionality, the absorption level and external factors contributing to the failure.

Financial corrections shall not be applied where the failure to achieve targets is due to the impact of socio-economic or environmental factors, significant changes in the economic or environmental conditions in the Member State concerned or because of reasons of force majeure seriously affecting implementation of the priorities concerned.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 to establish detailed rules on criteria for determining the level of financial correction to be applied.

The Commission shall adopt implementing acts, laying down the detailed arrangements to ensure a consistent approach for determining the milestones and targets in the performance framework for each priority and for assessing the achievement of the milestones and targets. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

CHAPTER IV

Measures linked to sound economic governance

Article 23

Measures linking effectiveness of ESI Funds to sound economic governance

1. The Commission may request a Member State to review and propose amendments to its Partnership Agreement and

relevant programmes, where this is necessary to support the implementation of relevant Council Recommendations or to maximise the growth and competitiveness impact of the ESI Funds in Member States receiving financial assistance.

Such a request may be made for the following purposes:

- (a) to support the implementation of a relevant country-specific recommendation adopted in accordance with Article 121(2) TFEU and of a relevant Council recommendation adopted in accordance with Article 148(4) TFEU, addressed to the Member State concerned;
- (b) to support the implementation of relevant Council Recommendations addressed to the Member State concerned and adopted in accordance with Articles 7(2) or 8(2) of Regulation (EU) No 1176/2011⁽¹⁾ of the European Parliament and of the Council provided that these amendments are deemed necessary to help correct the macro-economic imbalances; or
- (c) to maximise the growth and competitiveness impact of the available ESI Funds, if a Member State meets one of the following conditions:
 - (i) Union financial assistance is made available to it under Council Regulation (EU) No 407/2010⁽²⁾;
 - (ii) financial assistance is made available to it in accordance with Council Regulation (EC) No 332/2002⁽³⁾;
 - (iii) financial assistance is made available to it that triggers a macroeconomic adjustment programme in accordance with Regulation (EU) No 472/2013 of the European Parliament and of the Council⁽⁴⁾ or that triggers a decision of the Council in accordance with Article 136(1) TFEU.

For the purposes of point (b) of the second subparagraph, each of those conditions shall be deemed to be satisfied where such assistance has been made available to the Member State before or after 21 December 2013 and remains available to it.

⁽¹⁾ Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25).

⁽²⁾ Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

⁽³⁾ Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).

⁽⁴⁾ Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 140, 27.05.2013, p. 1).

2. A request by the Commission to a Member State in accordance with paragraph 1 shall be justified, with reference to the need to support the implementation of the relevant recommendations or to maximise the growth and competitiveness impact of the ESI Funds as appropriate, and shall indicate the programmes or priorities which it considers are concerned and the nature of the amendments expected. Such a request shall not be made before 2015 or after 2019, nor in relation to the same programmes in two consecutive years.

3. The Member State shall submit its response to the request referred to in paragraph 1 within two months of its receipt, setting out the amendments it considers necessary in the Partnership Agreement and programmes, the reasons for such amendments, identifying the programmes concerned and outlining the nature of the amendments proposed and their expected effects on the implementation of recommendations and on the implementation of the ESI Funds. If necessary, the Commission shall make observations within one month of the receipt of that response.

4. The Member State shall submit a proposal to amend the Partnership Agreement and the relevant programmes within two months of the date of submission of the response referred to in paragraph 3.

5. Where the Commission has not submitted observations or where the Commission is satisfied that any observations submitted have been duly taken into account, the Commission shall adopt a decision approving the amendments to the Partnership Agreement and the relevant programmes without undue delay and in any event not later than three months after their submission by the Member State in accordance with paragraph 3.

6. Where the Member State fails to take effective action in response to a request made in accordance with paragraph 1, within the deadlines set out in paragraphs 3 and 4, the Commission may, within three months following its observations under paragraph 3 or following the submission of the proposal of the Member State under paragraph 4, propose to the Council that it suspend part or all of the payments for the programmes or priorities concerned. In its proposal, the Commission shall set out the grounds for concluding that the Member State has failed to take effective action. In making its proposal, the Commission shall take account of all relevant information, and shall give due consideration to any elements arising from and opinions expressed through the structured dialogue under paragraph 15.

The Council shall decide on that proposal, by means of an implementing act. That implementing act shall only apply with respect to requests for payment submitted after the date of the adoption of that implementing act.

7. The scope and level of the suspension of payments imposed in accordance with paragraph 6, shall be proportionate and effective, and respect equality of treatment between Member

States, in particular with regard to the impact of the suspension on the economy of the Member State concerned. The programmes to be suspended shall be determined on the basis of the needs identified in the request referred to in paragraphs 1 and 2.

The suspension of payments shall not exceed 50 % of the payments of each of the programmes concerned. The decision may provide for an increase in the level of the suspension up to 100 % of payments if the Member State fails to take effective action in response to a request made in accordance with paragraph 1, within three months of the decision to suspend payments referred to in paragraph 6.

8. Where the Member State has proposed amendments to the Partnership Agreement and the relevant programmes as requested by the Commission, the Council acting on a proposal from the Commission shall decide on the lifting of the suspension of payments.

9. The Commission shall make a proposal to the Council to suspend part or all of the commitments or payments for the programmes of a Member State in the following cases:

- (a) where the Council decides in accordance with Article 126(8) or Article 126(11) TFEU that a Member State has not taken effective action to correct its excessive deficit;
- (b) where the Council adopts two successive recommendations in the same imbalance procedure, in accordance with Article 8(3) of Regulation (EU) No 1176/2011 on the grounds that a Member State has submitted an insufficient corrective action plan;
- (c) where the Council adopts two successive decisions in the same imbalance procedure in accordance with Article 10(4) of Regulation (EU) No 1176/2011 establishing non-compliance by a Member State on the grounds that it has not taken the recommended corrective action;
- (d) where the Commission concludes that a Member State has not taken measures to implement the adjustment programme referred to in Regulation (EU) No 407/2010 or Regulation (EC) No 332/2002 and as a consequence decides not to authorise the disbursement of the financial assistance granted to that Member State;
- (e) where the Council decides that a Member State does not comply with the macro-economic adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013, or with the measures requested by a Council decision adopted in accordance with Article 136(1) TFEU.

In making its proposal, the Commission shall respect the provisions of paragraph 11 and shall take account of all relevant information in that regard, and it shall give due consideration to any elements arising from and opinions expressed through the structured dialogue under paragraph 15.

Priority shall be given to the suspension of commitments: payments shall be suspended only when immediate action is sought and in the case of significant non-compliance. The suspension of payments shall apply to requests for payment submitted for the programmes concerned after the date of the decision to suspend.

10. A proposal by the Commission referred to in paragraph 9 in relation to the suspension of commitments shall be deemed adopted by the Council unless the Council decides, by means of an implementing act, to reject such a proposal by qualified majority within one month of the submission of the Commission proposal. The suspension of commitments shall apply to the commitments from the ESI Funds for the Member State concerned from 1 January of the year following the decision to suspend.

The Council shall adopt a decision, by means of an implementing act, on a proposal by the Commission referred to in paragraph 9 in relation to the suspension of payments.

11. The scope and level of the suspension of commitments or payments to be imposed on the basis of paragraph 10, shall be proportionate, respect the equality of treatment between Member States and take into account the economic and social circumstances of the Member State concerned, in particular the level of unemployment of the Member State concerned in relation to the Union average and the impact of the suspension on the economy of the Member State concerned. The impact of suspensions on programmes of critical importance to address adverse economic or social conditions shall be a specific factor to be taken into account.

Detailed provisions for determining the scope and level of suspensions are set out in Annex III.

The suspension of commitments shall be subject to the lower of the following ceilings:

- (a) A maximum of 50 % of the commitments relating to the next financial year for the ESI Funds in the first case of non-compliance with an excessive deficit procedure as referred to in point (a) of the first subparagraph of paragraph 9 and a maximum 25 % of the commitments relating to the next financial year for the ESI Funds in the first case of non-compliance relating to a corrective action plan under an excessive imbalances procedure as referred to in point (b) of the first subparagraph of paragraph 9 or non-compliance with the recommended corrective action pursuant to an excessive imbalances procedure as referred to in point (c) of the first subparagraph of paragraph 9.

The level of the suspension shall increase gradually up to a maximum of 100 % of the commitments relating to the next financial year for the ESI Funds in the case of an excessive deficit procedure and up to 50 % of the commitments relating to the next financial year for the

ESI Funds in the case of an excessive imbalance procedure, in line with the seriousness of the non-compliance;

- (b) a maximum of 0,5 % of nominal GDP applying in the first case of non-compliance with an excessive deficit procedure as referred to in point (a) of the first subparagraph of paragraph 9 and a maximum of 0,25 % of nominal GDP applying in the first case of non-compliance relating to a corrective action plan under an excessive imbalances procedure as referred to in point (b) of the first subparagraph of paragraph 9 or non-compliance with recommended corrective action under an excessive imbalances procedure as referred to in point (c) of the first subparagraph of paragraph 9.

If non-compliance relating to corrective actions referred to in points (a), (b) and (c) of the first subparagraph of paragraph 9 persists, the percentage of that GDP cap shall be gradually increased up to:

- a maximum of 1 % of nominal GDP applying in the event of persistent non-compliance with an excessive deficit procedure in accordance with point (a) of the first subparagraph of paragraph 9; and
- a maximum of 0,5 % of nominal GDP applying in the event of persistent non-compliance with an excessive imbalance procedure in accordance with point (b) or (c) of the first subparagraph of paragraph 9, in line with the seriousness of the non-compliance;

- (c) a maximum of 50 % of the commitments relating to the next financial year for the ESI Funds or a maximum of 0,5 % of nominal GDP in the first case of non-compliance as referred to in points (d) and (e) of the first subparagraph of paragraph 9.

In determining the level of the suspension and whether to suspend commitments or payments, the stage of the programme cycle shall be taken into account having regard in particular to the period remaining for using the funds following the re-budgeting of suspended commitments.

12. Without prejudice to de-commitment rules set out in Articles 86 to 88 the Commission shall lift the suspension of commitments, without delay, in the following cases:

- (a) where the excessive deficit procedure is held in abeyance in accordance with Article 9 of Council Regulation (EC) No 1467/97⁽¹⁾ or the Council has decided in accordance with Article 126(12) TFEU to abrogate the decision on the existence of an excessive deficit;

⁽¹⁾ Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

- (b) where the Council has endorsed the corrective action plan submitted by the Member State concerned in accordance with Article 8(2) of Regulation (EU) No 1176/2011 or the excessive imbalance procedure is placed in a position of abeyance in accordance with Article 10(5) of that Regulation or the Council has closed the excessive imbalance procedure in accordance with Article 11 of that Regulation;
- (c) where the Commission has concluded that the Member State concerned has taken adequate measures to implement the adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013 or the measures requested by a decision of the Council in accordance with Article 136(1) TFEU.

When lifting the suspension of commitments, the Commission shall re-budget the suspended commitments in accordance with Article 8 of Council Regulation (EU, Euratom) No 1311/2013.

A decision concerning the lifting of the suspension of payments shall be taken by the Council on a proposal from the Commission where the applicable conditions set out in points (a), (b) and (c) of the first subparagraph are fulfilled.

13. Paragraphs 6 to 12 shall not apply to the United Kingdom in so far as the suspension of commitments or of payments relate to matters covered by points (a), (b) and (c)(iii) of the second subparagraph of paragraph 1 or points (a), (b) or (c) of the first subparagraph of paragraph 9.

14. This Article shall not apply to programmes under the European territorial cooperation goal.

15. The Commission shall keep the European Parliament informed of the implementation of this Article. In particular the Commission shall, when one of the conditions set out in paragraph 6 or points (a) to (e) of the first subparagraph of paragraph 9 is fulfilled for a Member State, immediately inform the European Parliament and provide details of the ESI Funds and programmes which could be subject to a suspension of commitments or payments.

The European Parliament may invite the Commission for a structured dialogue on the application of this Article, having regard in particular to the transmission of the information referred to in the first sub-paragraph.

The Commission shall transmit the proposal for suspension of commitments or payments or the proposal to lift such a suspension to the European Parliament and the Council immediately after its adoption. The European Parliament may invite the Commission to explain the reasons for its proposal.

16. In 2017, the Commission shall carry out a review of the application of this Article. To this end, the Commission shall prepare a report which it shall transmit to the European Parliament and the Council, accompanied where necessary by a legislative proposal.

17. Where there are major changes in the social and economic situation in the Union, the Commission may submit a proposal to review the application of this Article, or the European Parliament or the Council, acting in accordance with Articles 225 or 241 TFEU respectively, may request the Commission to submit such a proposal.

Article 24

Increase in payments for Member State with temporary budgetary difficulties

1. On the request of a Member State, interim payments may be increased by 10 percentage points above the co-financing rate applicable to each priority for the ERDF, ESF and the Cohesion Fund or to each measure for the EAFRD and the EMFF. If a Member State meets one of the following conditions after 21 December 2013, the increased rate, which may not exceed 100 %, shall apply to its requests for payments for the period until 30 June 2016:

- (a) where the Member State concerned receives a loan from the Union under Council Regulation (EU) No 407/2010;
- (b) where the Member State concerned receives medium-term financial assistance in accordance with Regulation (EC) No 332/2002 conditional on the implementation of a macro-economic adjustment programme;
- (c) where financial assistance is made available to the Member State concerned conditional on the implementation of a macroeconomic adjustment programme as specified in Regulation (EU) No 472/2013.

This paragraph shall not apply to programmes under the ETC Regulation.

2. Notwithstanding paragraph 1, Union support through interim payments and payments of the final balance shall not be higher than the public support or the maximum amount of support from the ESI Funds for each priority for the ERDF, ESF and the Cohesion Fund, or for each measure for the EAFRD and the EMFF, as laid down in the decision of the Commission approving the programme.

3. The Commission shall examine the application of paragraphs 1 and 2 and shall submit to the European Parliament and the Council a report with its assessment and, if necessary, a legislative proposal before 30 June 2016.

*Article 25***Management of technical assistance for Member States with temporary budgetary difficulties**

1. On the request of a Member State with temporary budgetary difficulties which meets the conditions set out in Article 24(1), a part of the resources provided for under Article 59 and programmed in accordance with Fund-specific rules may, in agreement with the Commission, be transferred to technical assistance at the initiative of the Commission for implementation of measures in relation to the Member State concerned in accordance with point (k) of the third subparagraph of Article 58(1) through direct or indirect management.

2. The resources referred to in paragraph 1 shall be additional to the amounts established in accordance with the ceilings set out in the Fund-specific rules for technical assistance at the initiative of the Commission. Where a ceiling on technical assistance at the initiative of the Member State is set out in the Fund-specific rules, the amount to be transferred shall be included for the purposes of the calculation of compliance with that ceiling.

3. A Member State shall request the transfer referred to in paragraph 2 for a calendar year in which it meets the conditions set out in Article 24(1) by 31 January of the year in which a transfer is to be made. The request shall be accompanied by a proposal to amend the programme or programmes from which the transfer will be made. Corresponding amendments shall be made to the Partnership Agreement in accordance with Article 30 (2) which shall set out the total amount transferred each year to the Commission.

Where a Member States meets the conditions set out in Article 24(1) on 1 January 2014, it may transmit the request for that year at the same time as the submission of its Partnership Agreement, which shall set out the amount to be transferred to technical assistance at the initiative of the Commission.

TITLE III

PROGRAMMING

CHAPTER I

General provisions on the ESI Funds*Article 26***Preparation of programmes**

1. The ESI Funds shall be implemented through programmes in accordance with the Partnership Agreement. Each programme shall cover the period from 1 January 2014 to 31 December 2020.

2. Programmes shall be drawn up by Member States or any authority designated by them, in cooperation with the partners referred to in Article 5. Member States shall draw up the programmes based on procedures that are transparent for the public, in accordance with their institutional and legal framework.

3. The Member States and the Commission shall cooperate to ensure effective coordination in the preparation and implementation of programmes for the ESI Funds, including, where appropriate, multi-fund programmes for the Funds, taking account of the proportionality principle.

4. Programmes shall be submitted by the Member States to the Commission within three months of the submission of the Partnership Agreement. European territorial cooperation programmes shall be submitted by 22 September 2014. All programmes shall be accompanied by the ex ante evaluation as set out in Article 55.

5. Where one or more of the Fund-specific Regulations for the ESI Funds enters into force between 22 February 2014 and 22 June 2014, the programme or programmes supported by the ESI Fund affected by the delay in the entry into force of the Fund-specific Regulation shall be submitted within three months of the submission of the revised Partnership Agreement referred to in Article 17(1).

6. Where one or more of the Fund-specific Regulations for the ESI Funds enters into force later than on 22 June 2014, the programme or programmes supported by the ESI Fund affected by the delay in the entry into force of the Fund-specific Regulation shall be submitted within three months of the date of entry into force of the Fund-specific Regulation that was subject to the delay.

*Article 27***Content of programmes**

1. Each programme shall set out a strategy for the programme's contribution to the Union strategy for smart, sustainable and inclusive growth consistent with this Regulation, the Fund-specific rules, and with the content of the Partnership Agreement.

Each programme shall include arrangements to ensure effective, efficient and coordinated implementation of the ESI Funds and actions to achieve a reduction of the administrative burden on beneficiaries.

2. Each programme shall define priorities setting out specific objectives, financial appropriations of support from the ESI Funds and corresponding national co-financing, including amounts related to the performance reserve, which may be public or private in accordance with the Fund-specific rules.

3. Where Member States and regions participate in macro-regional strategies or sea basin strategies, the relevant programme, in accordance with the needs of the programme area as identified by the Member State, shall set out the contribution of the planned interventions to those strategies.

4. Each priority shall set out indicators and corresponding targets expressed in qualitative or quantitative terms, in accordance with the Fund-specific rules, in order to assess

progress in programme implementation aimed at achievement of objectives as the basis for monitoring, evaluation and review of performance. Those indicators shall include:

- (a) financial indicators relating to expenditure allocated;
- (b) output indicators relating to the operations supported;
- (c) result indicators relating to the priority concerned.

For each ESI Fund, the Fund-specific rules shall set out common indicators and may set out provisions related to programme-specific indicators.

5. Each programme, except those which cover exclusively technical assistance, shall include a description, in accordance with the Fund-specific rules, of the actions to take into account the principles set out in Articles 5, 7 and 8.

6. Each programme, except those where technical assistance is undertaken under a specific programme, shall set out the indicative amount of support to be used for climate change objectives, based on the methodology referred to in Article 8.

7. Member States shall draft the programme in accordance with the Fund-specific rules.

Article 28

Specific provisions on the content of programmes dedicated to joint instruments for uncapped guarantees and securitisation providing capital relief implemented by the EIB

1. By way of derogation from Article 27, the dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) shall include:

- (a) the elements set out under the first subparagraph of Article 27(1), and under paragraphs 2, 3 and 4 of that Article as regards the principles set out under Article 5;
- (b) an identification of the bodies referred to under Articles 125, 126 and 127 of this Regulation and Article 65(2) of the EAFRD Regulation as relevant for the Fund concerned;
- (c) for each ex ante conditionality, established in accordance with Article 19 and Annex XI, which is applicable to the programme, an assessment of whether the ex ante conditionality is fulfilled at the date of submission of the Partnership Agreement and programme, and where ex ante

conditionalities are not fulfilled, a description of the actions to fulfil the ex ante conditionality, the bodies responsible and a timetable for such actions in accordance with the summary submitted in the Partnership Agreement.

2. By way of derogation from Article 55, the ex ante assessment referred to in point (a) of the first subparagraph of Article 39(4) shall be considered as the ex ante evaluation of such programmes.

3. For the purposes of programmes referred to in point (b) of the first subparagraph of Article 39(4) of this Regulation, Article 6(2) and Article 59(5) and (6) of the EAFRD Regulation shall not apply. In addition to the elements referred to in paragraph 1 of this Article, only the provisions set out in points (c)(i), (f), (h), (i) and (m)(i) to (iii) of Article 8(1) of the EAFRD Regulation shall apply for programmes under the EAFRD.

Article 29

Procedure for the adoption of programmes

1. The Commission shall assess the consistency of programmes with this Regulation and with the Fund-specific rules, their effective contribution to the selected thematic objectives and to the Union priorities specific to each ESI Fund, and also the consistency with the Partnership Agreement, taking account of the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and relevant Council recommendations adopted in accordance with Article 148(4) TFEU as well as of the ex ante evaluation. The assessment shall address, in particular, the adequacy of the programme strategy, the corresponding objectives, indicators, targets and the allocation of budgetary resources.

2. By way of derogation from paragraph 1, the Commission shall not need to assess the consistency of the dedicated operational programmes for the YEI referred to in point (a) of the second paragraph of Article 18 of the ESF Regulation and dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) of this Regulation with the Partnership Agreement in the absence of the submission by the Member State of its Partnership Agreement at the date of submission of such dedicated programmes.

3. The Commission shall make observations within three months of the date of submission of the programme. The Member State shall provide to the Commission all necessary additional information and, where appropriate, revise the proposed programme.

4. In accordance with the Fund-specific rules, the Commission shall approve each programme no later than six months following its submission by the Member State concerned, provided that any observations made by the Commission have been adequately taken into account, but not before 1 January 2014 or before adoption by the Commission of a decision approving the Partnership Agreement.

By way of derogation from the requirement referred to in the first subparagraph, programmes under the European territorial cooperation goal may be approved by the Commission before the adoption of the decision approving the Partnership Agreement and dedicated operational programmes for the YEI referred to in point (a) of the second paragraph of Article 18 of the ESF Regulation and dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) of this Regulation may be approved by the Commission before the submission of the Partnership Agreement.

Article 30

Amendment of programmes

1. Requests for amendment of programmes submitted by a Member State shall be duly justified and shall in particular set out the expected impact of the changes to the programme on achieving the Union strategy for smart, sustainable and inclusive growth and the specific objectives defined in the programme, taking account of this Regulation and the Fund-specific rules, the horizontal principles referred to in Articles 5, 7 and 8, as well as of the Partnership Agreement. They shall be accompanied by the revised programme.

2. The Commission shall assess the information provided in accordance with paragraph 1, taking account of the justification provided by the Member State. The Commission may make observations within one month of the submission of the revised programme and the Member State shall provide to the Commission all necessary additional information. In accordance with the Fund-specific rules, the Commission shall approve requests for amendment of a programme as soon as possible but no later than three months after their submission by the Member State provided that any observations made by the Commission have been adequately taken into account.

Where the amendment of a programme affects the information provided in the Partnership Agreement in accordance with points (a)(iii), (iv) and (vi) of Article 15(1)), the approval of the amendment of the programme by the Commission shall at the same time constitute an approval for the consequential revision of the information in the Partnership Agreement.

3. By way of derogation from paragraph 2, where the request for amendment is submitted to the Commission in order to reallocate the performance reserve following the performance review, the Commission shall make observations only where it considers that the allocation proposed is not in compliance with applicable rules, is not consistent with the development needs of the Member State or the region, or entails a significant risk that the objectives and targets included in the proposal cannot be achieved. The Commission shall approve the request for amendment of a programme as soon as possible and no later than two months after the submission of the request by the Member State provided that any observations made by the Commission have been adequately taken into account. The approval of the amendment of the programme by the Commission shall at the same time constitute an approval for the consequential revision of the information in the Partnership Agreement.

4. By way of derogation from paragraph 2, specific procedures for the amendment of operational programmes may be established in the EMFF Regulation.

Article 31

Participation of the EIB

1. The EIB may, at the request of Member States, participate in the preparation of the Partnership Agreement, as well as in activities relating to the preparation of operations, in particular major projects, financial instruments and PPPs.

2. The Commission may consult the EIB before the adoption of the Partnership Agreement or the programmes.

3. The Commission may request the EIB to examine the technical quality, economic and financial sustainability, and the viability of major projects and to assist it as regards the financial instruments to be implemented or developed.

4. The Commission, in implementing the provisions of this Regulation, may award grants or service contracts to the EIB covering initiatives implemented on a multi-annual basis. The commitment of the contributions of the budget of the Union in respect of such grants or service contracts shall be effected annually.

CHAPTER II

Community-led local development

Article 32

Community-led local development

1. Community-led local development shall be supported by the EAFRD, which shall be designated as LEADER local development and may be supported by the ERDF, ESF or EMFF. For the purposes of this Chapter, those Funds are hereinafter referred to as the "ESI Funds concerned".

2. Community-led local development shall be:

- (a) focused on specific subregional areas;
- (b) led by local action groups composed of representatives of public and private local socio-economic interests, in which, at the decision-making level neither public authorities, as defined in accordance with national rules, nor any single interest group represents more than 49 % of the voting rights;
- (c) carried out through integrated and multi-sectoral area-based local development strategies;
- (d) designed taking into consideration local needs and potential, and shall include innovative features in the local context, networking and, where appropriate, cooperation.

3. Support from the ESI Funds concerned to community-led local development shall be consistent and coordinated between the ESI Funds concerned. This shall be ensured inter alia through coordinated capacity-building, selection, approval and funding of community-led local development strategies and local action groups.

4. Where the selection committee for the community-led local development strategies set up under Article 33(3) determines that the implementation of the community-led local development strategy selected requires support from more than one Fund, it may designate in accordance with national rules and procedures, a lead Fund to support all running and animation costs under points (d) and (e) of Article 35(1) for the community-led local development strategy.

5. Community-led local development supported by the ESI Funds concerned shall be carried out under one or more priorities of the relevant programme or programmes in accordance with Fund-specific rules of the ESI Funds concerned.

Article 33

Community-led local development strategies

1. A community-led local development strategy shall contain at least the following elements:

- (a) the definition of the area and population covered by the strategy;
- (b) an analysis of the development needs and potential of the area, including an analysis of strengths, weaknesses, opportunities and threats;
- (c) a description of the strategy and its objectives, a description of the integrated and innovative features of the strategy and a hierarchy of objectives, including measurable targets for outputs or results. In relation to results, targets may be expressed in quantitative or qualitative terms. The strategy shall be consistent with the relevant programmes of all the ESI Funds concerned that are involved;
- (d) a description of the community involvement process in the development of the strategy;
- (e) an action plan demonstrating how objectives are translated into actions;
- (f) a description of the management and monitoring arrangements of the strategy, demonstrating the capacity of the local action group to implement the strategy and a description of specific arrangements for evaluation;
- (g) the financial plan for the strategy, including the planned allocation from each of the ESI Funds concerned.

2. Member States shall define criteria for the selection of community-led local development strategies.

3. Community-led local development strategies shall be selected by a committee set up for that purpose by the

managing authority or authorities responsible and approved by the managing authority or authorities responsible.

4. The first round of selection of community-led local development strategies shall be completed within two years of the date of the approval of the Partnership Agreement. Member States may select additional community-led local development strategies after that date but no later than 31 December 2017.

5. The decision approving a community-led local development strategy shall set out the allocations of each of the ESI Funds concerned. The decision shall also set out the responsibilities for the management and control tasks under the programme or programmes in relation to the community-led local development strategy.

6. The population of the area referred to in point (a) of paragraph 1 shall be not less than 10 000 and not more than 150 000 inhabitants. However, in duly justified cases and on the basis of a proposal by a Member State the Commission may adopt or amend those population limits in its decision under Article 15(2) or (3) to approve or amend respectively the Partnership Agreement in the case of that Member State, in order to take account of sparsely or densely populated areas or in order to ensure the territorial coherence of areas covered by the community-led local development strategies.

Article 34

Local action groups

1. Local action groups shall design and implement the community-led local development strategies.

Member States shall define the respective roles of the local action group and the authorities responsible for the implementation of the relevant programmes, concerning all implementation tasks relating to the community-led local development strategy.

2. The managing authority or authorities responsible shall ensure that the local action groups either select one partner within the group as a lead partner in administrative and financial matters, or come together in a legally constituted common structure.

3. The tasks of local action groups shall include the following:

- (a) building the capacity of local actors to develop and implement operations including fostering their project management capabilities;
- (b) drawing up a non-discriminatory and transparent selection procedure and objective criteria for the selection of operations, which avoid conflicts of interest, ensure that at least 50 % of the votes in selection decisions are cast by partners which are not public authorities, and allow selection by written procedure;

- (c) ensuring coherence with the community-led local development strategy when selecting operations, by prioritising those operations according to their contribution to meeting that strategy's objectives and targets;
- (d) preparing and publishing calls for proposals or an ongoing project submission procedure, including defining selection criteria;
- (e) receiving and assessing applications for support;
- (f) selecting operations and fixing the amount of support and, where relevant, presenting the proposals to the body responsible for final verification of eligibility before approval;
- (g) monitoring the implementation of the community-led local development strategy and the operations supported and carrying out specific evaluation activities linked to that strategy.

4. Without prejudice to point (b) of paragraph 3, the local action group may be a beneficiary and implement operations in accordance with the community-led local development strategy.

5. In the case of cooperation activities of local action groups as referred to in point (c) of Article 35(1), the tasks set out in point (f) of paragraph 3 of this Article may be carried out by the managing authority responsible.

Article 35

Support from the ESI Funds for community-led local development

1. Support from the ESI Funds concerned for community-led local development shall cover:

- (a) the costs of preparatory support consisting of capacity-building, training and networking with a view to preparing and implementing a community-led local development strategy.

Such costs may include one or more of the following elements:

- (i) training actions for local stakeholders;
- (ii) studies of the area concerned;
- (iii) costs related to the design of the community-led local development strategy, including consultancy costs and costs for actions related to consultations of stakeholders for the purposes of preparing the strategy;

- (iv) administrative costs (operating and personnel costs) of an organisation that applies for preparatory support during the preparation phase;

- (v) support for small pilot projects.

Such preparatory support shall be eligible regardless of whether the community-led local development strategy designed by the local action group benefitting from the support is selected for funding by the selection committee set up under Article 33(3).

- (b) implementation of operations under the community-led local development strategy;
- (c) preparation and implementation of the local action group's cooperation activities;
- (d) running costs linked to the management of the implementation of the community-led local development strategy consisting of operating costs, personnel costs, training cost, costs linked to public relations, financial costs as well as the costs linked to monitoring and evaluation of that strategy as referred to in point (g) of Article 34(3);
- (e) animation of the community-led local development strategy in order to facilitate exchange between stakeholders to provide information and to promote the strategy and to support potential beneficiaries with a view to developing operations and preparing applications.

2. Support for running costs and animation as referred to in points (d) and (e) of paragraph 1 shall not exceed 25 % of the total public expenditure incurred within the community-led local development strategy.

CHAPTER III

Territorial development

Article 36

Integrated territorial investment

1. Where an urban development strategy or other territorial strategy, or a territorial pact referred to in Article 12(1) of the ESF Regulation, requires an integrated approach involving investments from the ESF, ERDF or Cohesion Fund under more than one priority axis of one or more operational programmes, actions may be carried out as an integrated territorial investment (an 'ITI').

Actions carried out as an ITI may be complemented with financial support from the EAFRD or the EMFF.

2. Where an ITI is supported by ESF, ERDF or Cohesion Fund, the relevant operational programme or programmes shall describe the approach to the use of the ITI instrument and the indicative financial allocation from each priority axis in accordance with the Fund-specific rules.

Where an ITI is complemented with financial support from the EAFRD or the EMFF, the indicative financial allocation and the measures covered shall be set out in the relevant programme or programmes in accordance with the Fund-specific rules.

3. The Member State or the managing authority may designate one or more intermediate bodies, including local authorities, regional development bodies or non-governmental organisations, to carry out the management and implementation of an ITI in accordance with the Fund-specific rules.

4. The Member State or the relevant managing authorities shall ensure that the monitoring system for the programme or programmes provides for the identification of operations and outputs of a priority contributing to an ITI.

TITLE IV

FINANCIAL INSTRUMENTS

Article 37

Financial instruments

1. The ESI Funds may be used to support financial instruments under one or more programmes, including when organised through funds of funds, in order to contribute to the achievement of specific objectives set out under a priority.

Financial instruments shall be implemented to support investments which are expected to be financially viable and do not give rise to sufficient funding from market sources. When applying this Title, the managing authorities, the bodies implementing funds of funds, and the bodies implementing financial instruments shall comply with applicable law, in particular on State aid and public procurement.

2. Support of financial instruments shall be based on an ex ante assessment which has established evidence of market failures or suboptimal investment situations, and the estimated level and scope of public investment needs, including types of financial instruments to be supported. Such ex ante assessment shall include:

- (a) an analysis of market failures, suboptimal investment situations, and investment needs for policy areas and thematic objectives or investment priorities to be addressed with a view to contributing to the achievement of specific objectives set out under a priority and to be supported through financial instruments. That analysis shall be based on available good practices methodology;
- (b) an assessment of the added value of the financial instruments that are being considered for support from the ESI Funds, consistency with other forms of public intervention addressing the same market, possible State aid implications, the proportionality of the envisaged intervention and measures to minimise market distortion;

- (c) an estimate of additional public and private resources to be potentially raised by the financial instrument down to the level of the final recipient (expected leverage effect), including as appropriate an assessment of the need for, and level of, preferential remuneration to attract counterpart resources from private investors and/or a description of the mechanisms which will be used to establish the need for, and extent of, such preferential remuneration, such as a competitive or appropriately independent assessment process;

- (d) an assessment of lessons learnt from similar instruments and ex ante assessments carried out by the Member State in the past, and how such lessons will be applied in the future;

- (e) the proposed investment strategy, including an examination of options for implementation arrangements within the meaning of Article 38, financial products to be offered, final recipients targeted and envisaged combination with grant support as appropriate;

- (f) a specification of the expected results and how the financial instrument concerned is expected to contribute to the achievement of the specific objectives set out under the relevant priority including indicators for that contribution;

- (g) provisions allowing for the ex ante assessment to be reviewed and updated as required during the implementation of any financial instrument which has been implemented based upon such assessment, where during the implementation phase, the managing authority considers that the ex ante assessment may no longer accurately represent the market conditions existing at the time of implementation.

3. The ex ante assessment referred to in paragraph 2 may be performed in stages. It shall, in any event, be completed before the managing authority decides to make programme contributions to a financial instrument.

The summary findings and conclusions of ex ante assessments in relation to financial instruments shall be published within three months of their date of finalisation.

The ex ante assessment shall be submitted to the monitoring committee for information purposes in accordance with the Fund-specific rules.

4. Where financial instruments support financing to enterprises, including SMEs, such support shall target the establishment of new enterprises, early stage-capital, i.e. seed capital and start-up capital, expansion capital, capital for the strengthening of the general activities of an enterprise, or the

realisation of new projects, penetration of new markets or new developments by existing enterprises, without prejudice to applicable Union State aid rules, and in accordance with the Fund-specific rules. Such support may include investment in both tangible and intangible assets as well as working capital within the limits of applicable Union State aid rules and with a view to stimulating the private sector as a supplier of funding to enterprises. It may also include the costs of transfer of proprietary rights in enterprises provided that such transfers take place between independent investors.

5. Investments that are to be supported through financial instruments shall not be physically completed or fully implemented at the date of the investment decision.

6. Where financial instruments provide support to final recipients in respect of infrastructure investments with the objective of supporting urban development or urban regeneration or similar infrastructure investments with the objectives of diversifying non-agricultural activities in rural areas, such support may include the amount necessary for the reorganisation of a debt portfolio regarding infrastructure forming part of the new investment, up to a maximum of 20 % of the total amount of programme support from the financial instrument to the investment.

7. Financial instruments may be combined with grants, interest rate subsidies and guarantee fee subsidies. Where support from ESI Funds is provided by means of financial instruments and combined in a single operation, with other forms of support directly related to financial instruments targeting the same final recipients, including technical support, interest rate subsidies and guarantee fee subsidies, the provisions applicable to financial instruments shall apply to all forms of support within that operation. In such cases, applicable Union State aid rules shall be respected and separate records shall be maintained for each form of support.

8. Final recipients supported by an ESI Fund financial instrument may also receive assistance from another ESI Funds priority or programme or from another instrument supported by the budget of the Union in accordance with applicable Union State aid rules. In that case, separate records shall be maintained for each source of assistance and the ESI Funds financial instrument support shall be part of an operation with eligible expenditure distinct from the other sources of assistance.

9. The combination of support provided through grants and financial instruments as referred to in paragraphs 7 and 8 may, subject to applicable Union State aid rules, cover the same expenditure item provided that the sum of all forms of support combined does not exceed the total amount of the expenditure item concerned. Grants shall not be used to reimburse support received from financial instruments. Financial instruments shall not be used to pre-finance grants.

10. Contributions in kind shall not constitute eligible expenditure in respect of financial instruments, except for contributions of land or real estate in respect of investments with the objective of supporting rural development, urban development or urban regeneration, where the land or real estate forms part of the investment. Such contributions of land or real estate shall be eligible provided that the conditions laid down in Article 69(1) are met.

11. VAT shall not constitute eligible expenditure of an operation, except in the case of VAT which is non-recoverable under national VAT legislation. The treatment of VAT at the level of investments made by final recipients shall not be taken into account for the purposes of determining the eligibility of expenditure under the financial instrument. However, where financial instruments are combined with grants under paragraphs 7 and 8 of this Article, the provisions of Article 69(3) shall apply to the grant.

12. For the purposes of the application of this Article, the applicable Union State aid rules shall be those in force at the time when the managing authority or the body that implements the fund of funds contractually commits programme contributions to a financial instrument, or when the financial instrument contractually commits programme contributions to final recipients, as applicable.

13. The Commission shall be empowered to adopt delegated acts in accordance with Article 149 laying down additional specific rules on the purchase of land and on combining technical support with financial instruments.

Article 38

Implementation of financial instruments

1. In implementing Article 37, managing authorities may provide a financial contribution to the following financial instruments:

- (a) financial instruments set up at Union level, managed directly or indirectly by the Commission;
- (b) financial instruments set up at national, regional, transnational or cross-border level, managed by or under the responsibility of the managing authority.

2. Contributions from the ESI Funds to financial instruments under point (a) of paragraph 1 shall be placed in separate accounts and used, in accordance with the objectives of the respective ESI Funds, to support actions and final recipients consistent with the programme or programmes from which such contributions are made.

Contributions to the financial instruments referred to in the first subparagraph shall be subject to this Regulation unless exceptions are expressly provided for.

The second subparagraph is without prejudice to the rules governing the set up and functioning of the financial instruments under the Financial Regulation, unless those rules conflict with the rules of this Regulation, in which case this Regulation prevails.

3. For financial instruments under point (b) of paragraph 1, the managing authority may provide a financial contribution to the following financial instruments:

- (a) financial instruments complying with the standard terms and conditions laid down by the Commission, in accordance with the second subparagraph of this paragraph;
- (b) already existing or newly created financial instruments which are specifically designed to achieve the specific objectives set out under the relevant priority.

The Commission shall adopt implementing acts concerning the standard terms and conditions with which the financial instruments under point (a) of the first subparagraph shall comply. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

4. When supporting financial instruments referred to in point (b) of paragraph 1 the managing authority may:

- (a) invest in the capital of existing or newly created legal entities, including those financed from other ESI Funds, dedicated to implementing financial instruments consistent with the objectives of the respective ESI Funds, which will undertake implementation tasks; the support to such entities shall be limited to the amounts necessary to implement new investments in accordance with Article 37 and in a manner that is consistent with the objectives of this Regulation;
- (b) entrust implementation tasks to:
 - (i) the EIB;
 - (ii) international financial institutions in which a Member State is a shareholder, or financial institutions established in a Member State aiming at the achievement of public interest under the control of a public authority;
 - (iii) a body governed by public or private law; or
- (c) undertake implementation tasks directly, in the case of financial instruments consisting solely of loans or

guarantees. In that case the managing authority shall be considered to be the beneficiary as defined in point (10) of Article 2.

When implementing the financial instrument, the bodies referred to in points (a),(b) and (c) of the first subparagraph shall ensure compliance with applicable law, including rules covering the ESI Funds, State aid, public procurement and relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud. Those bodies shall not be established and shall not maintain business relations with entities incorporated in territories, whose jurisdictions do not cooperate with the Union in relation to the application of the internationally agreed tax standards and shall transpose such requirements in their contracts with the selected financial intermediaries.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 laying down additional specific rules on the role, liabilities and responsibility of bodies implementing financial instruments, related selection criteria and products that may be delivered through financial instruments in accordance with Article 37. The Commission shall notify those delegated acts simultaneously to the European Parliament and the Council by 22 april 2014.

5. The bodies referred to in points (a) and (b) of the first subparagraph of paragraph 4, when implementing funds of funds may further entrust part of the implementation to financial intermediaries provided that such entities ensure under their responsibility that the financial intermediaries satisfy the criteria laid down in Article 140(1),(2) and (4) of the Financial Regulation. Financial intermediaries shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflicts of interest.

6. The bodies referred to in point (b) of the first subparagraph of paragraph 4 to which implementation tasks have been entrusted shall open fiduciary accounts in their name and on behalf of the managing authority, or set up the financial instrument as a separate block of finance within the financial institution. In the case of a separate block of finance, an accounting distinction shall be made between programme resources invested in the financial instrument and the other resources available in the financial institution. The assets held on fiduciary accounts and such separate blocks of finance shall be managed in accordance with the principle of sound financial management following appropriate prudential rules and shall have appropriate liquidity.

7. Where a financial instrument is implemented under points (a) and (b) of the first subparagraph of paragraph 4, subject to the implementation structure of the financial instrument, the terms and conditions for contributions from programmes to financial instruments shall be set out in funding agreements in accordance with Annex III at the following levels:

- (a) where applicable, between the duly mandated representatives of the managing authority and the body that implements the fund of funds; and

(b) between the duly mandated representatives of the managing authority, or where applicable, the body that implements the fund of funds, and the body that implements the financial instrument.

8. For financial instruments implemented under point (c) of the first subparagraph of paragraph 4, the terms and conditions for contributions from programmes to financial instruments shall be set out in a strategy document in accordance with Annex IV to be examined by the monitoring committee.

9. National public and private contributions, including where relevant contributions in kind as referred to in Article 37(10), may be provided at the level of the fund of funds, at the level of the financial instrument or at the level of final recipients, in accordance with the Fund-specific rules.

10. The Commission shall adopt implementing acts laying down uniform conditions regarding the detailed arrangements for the transfer and management of programme contributions managed by the bodies referred to in the first subparagraph of paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

Article 39

Contribution of ERDF and EAFRD to joint uncapped guarantee and securitisation financial instruments in favour of SMEs, implemented by the EIB

1. For the purposes of this Article, 'debt finance' means loans, leasing or guarantees.

2. Member States may use the ERDF and EAFRD to provide a financial contribution to financial instruments referred to in point (a) of Article 38(1) of this Regulation, managed indirectly by the Commission with implementation tasks entrusted to the EIB pursuant to point (c)(iii) of Article 58(1) and Article 139(4) of the Financial Regulation, in respect of the following activities:

(a) uncapped guarantees providing capital relief to financial intermediaries for new portfolios of debt finance to eligible SMEs in accordance with Article 37(4) of this Regulation;

(b) securitisation, as defined in point (61) of Article 4 (1) of Regulation (EU) 575/2013 of the European Parliament and of the Council⁽¹⁾, of any of the following:

(i) existing portfolios of debt finance to SMEs and other enterprises with less than 500 employees;

(ii) new portfolios of debt finance to SMEs.

The financial contribution referred to in points (a) and (b) of the first subparagraph of this paragraph shall contribute to junior and/or mezzanine tranches of portfolios mentioned therein provided that the relevant financial intermediary retains a sufficient part of the risk of the portfolios at least equal to the risk retention requirement set out in Directive 2013/36/EU of the European Parliament and of the Council⁽²⁾ and in Regulation (EU) No 575/2013 to ensure adequate alignment of interest. In the case of securitisation under point (b) of the first subparagraph of this paragraph, the financial intermediary is obliged to originate new debt finance to eligible SMEs in accordance with Article 37(4) of this Regulation.

Each Member State intending to participate in such financial instruments shall contribute an amount which is in line with SMEs' debt financing needs in that Member State and the estimated demand for such SME debt finance, taking into account the ex ante assessment referred to in point (a) of the first subparagraph of paragraph 4 and in any case which is not higher than 7 % of the allocation from the ERDF and EAFRD to the Member State. The aggregate ERDF and EAFRD contribution by all participating Member States shall be subject to a global ceiling of EUR 8 500 000 000 (in 2011 prices).

Where it is considered by the Commission in consultation with the EIB that the aggregate minimum contribution to the instrument representing the sum of the contributions of all participating Member States is insufficient taking due account of the minimum critical mass defined in the ex ante assessment referred to in point (a) of the first subparagraph of paragraph 4, implementation of the financial instrument shall be discontinued and the contributions returned to the Member States.

Where the Member State and the EIB are not able to agree the conditions of the funding agreement referred to in point (c) of the first subparagraph of paragraph 4 the Member State shall submit a request for amendment of the programme referred to in point (b) of the first subparagraph of paragraph 4 and reallocate the contribution to other programmes and priorities in accordance with requirements for thematic concentration.

Where the conditions for the termination of the Member State's contribution to the instrument established in the funding agreement between the Member State concerned and the EIB referred to in point (c) of the first subparagraph of paragraph 4 have been satisfied, the Member State shall submit a request for amendment of the programme referred to in point (b) of the

⁽¹⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

⁽²⁾ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

first subparagraph of paragraph 4 and reallocate the remaining contribution to other programmes and priorities in accordance with requirements for thematic concentration.

Where the participation of a Member State is discontinued, that Member State shall submit a request for amendment of the programme. Where unused appropriations are decommitted, the decommitted appropriations shall be made available again to the Member State concerned, in order to be re-programmed for other programmes and priorities in accordance with the requirements for thematic concentration.

3. The SMEs which receive new debt finance, as a result of the new portfolio built up by the financial intermediary in the context of the financial instrument referred to in paragraph 2 shall be considered the final recipients of the contribution of the ERDF and EAFRD to the financial instrument concerned.

4. The financial contribution referred to in paragraph 2 shall comply with the following conditions:

(a) by way of derogation from Article 37(2), it shall be based on one ex ante assessment at Union level carried out by the EIB and the Commission.

On the basis of available data sources on bank debt finance and SMEs, the ex ante assessment shall cover, inter alia, an analysis of the SME financing needs at Union level, SME financing conditions and needs as well as an indication of the SME financing gap in each Member State, a profile of the economic and financial situation of the SME sector at Member State level, minimum critical mass of aggregate contributions, a range of estimated total loan volume generated by such contributions, and the added value;

(b) it shall be provided by each participating Member State as part of a single dedicated national programme per financial contribution by ERDF and EAFRD supporting the thematic objective set out in point (3) of the first paragraph of Article 9;

(c) it shall be subject to the conditions set out in a funding agreement concluded between each participating Member State and the EIB including, inter alia:

(i) tasks and obligations of the EIB including remuneration;

(ii) minimum leverage to be achieved at clearly defined milestones within the eligibility period indicated in Article 65(2);

(iii) conditions for the new debt finance;

(iv) provisions relating to non-eligible activities and exclusion criteria;

(v) schedule of payments;

(vi) penalties in the event of non-performance by financial intermediaries;

(vii) selection of financial intermediaries;

(viii) monitoring, reporting and auditing;

(ix) visibility;

(x) the conditions for termination of the agreement.

For the purposes of implementation of the instrument, the EIB will enter into contractual arrangements with selected financial intermediaries;

(d) in the event that the funding agreement referred to in point (c) is not concluded within six months of the adoption of the programme referred to in point (b), the Member State shall have the right to reallocate such contribution to other programmes and priorities in accordance with requirements for thematic concentration.

The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt an implementing act laying down the model of the funding agreement referred to in point (c) of the first subparagraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 150(3).

5. A minimum leverage shall be achieved in each participating Member State at the milestones set out in the funding agreement referred to in point (c) of the first subparagraph of paragraph 4, calculated as the ratio between the new debt finance to eligible SMEs to be originated by the financial intermediaries and the corresponding contribution of the ERDF and EAFRD from the relevant Member State to the financial instruments. Such minimum leverage may vary between participating Member States.

In the event that the financial intermediary does not achieve the minimum leverage set out in the funding agreement referred to in point (c) of the first subparagraph of paragraph 4 it shall be contractually bound to pay penalties for the benefit of the participating Member State, in accordance with the terms and conditions set out in the funding agreement.

Neither the guarantees issued nor the relevant securitisation transactions shall be affected by a failure by the financial intermediary to reach the minimum leverage set out in the funding agreement.

6. By way of derogation from the first subparagraph of Article 38(2), financial contributions referred to in paragraph 2 of this Article may be placed in separate accounts per Member State or, if two or more participating Member States give their consent, in a single account covering all such Member States and used in accordance with the specific objectives of the programmes from which the contributions are made.

7. By way of derogation from Article 41(1) and (2) as regards the financial contributions referred to in paragraph 2 of this Article, the Member State's request for payment to the Commission shall be made on the basis of 100 % of the amounts to be paid by the Member State to the EIB in accordance with the schedule defined in the funding agreement referred to in point (c) of the first subparagraph of paragraph 4 of this Article. Such requests for payment shall be based on the amounts requested by the EIB deemed necessary to cover commitments for guarantee contracts or securitisation transactions to be finalised within the three following months. Payments from Member States to the EIB shall be made without delay and in any case before commitments are entered into by the EIB.

8. At closure of the programme, the eligible expenditure shall be the total amount of programme contributions paid to the financial instrument, corresponding:

(a) for the activities referred to in point (a) of the first subparagraph of paragraph 2 of this Article, to the resources referred to in point (b) of the first subparagraph of Article 42(3);

(b) for the activities referred to in point (b) of the first subparagraph of paragraph 2 of this Article, to the aggregate amount of new debt finance resulting from the securitisation transactions, paid to or to the benefit of eligible SMEs within the eligibility period indicated in Article 65(2).

9. For the purpose of Articles 44 and 45, the uncalled guarantees and the amounts recovered in relation to, respectively, the uncapped guarantees and the securitisation transactions, shall be deemed to be resources paid back to the financial instruments. At the winding up of the financial instruments, the net liquidation proceeds, after deduction of costs, fees and payment of amounts due to creditors ranking senior to those contributed by the ERDF and EAFRD, shall be returned to the relevant Member States pro rata to their contributions to the financial instrument.

10. The report referred to in Article 46(1) shall include the following additional elements:

(a) the total amount of ERDF and EAFRD support paid to the financial instrument in relation to uncapped guarantees or securitisation transactions, by programme and priority or measure;

(b) progress in creating the new debt finance in accordance with Article 37(4), for eligible SMEs.

11. Notwithstanding Article 93(1), the resources allocated to instruments under paragraph 2 of this Article may be used for the purpose of giving rise to new SME debt finance in the entire territory of the Member State without regard to the categories

of region, unless otherwise provided for in the funding agreement referred to in point (c) of the first subparagraph of paragraph 4.

12. Article 70 shall not apply to programmes set up to implement financial instruments under this Article.

Article 40

Management and control of financial instruments

1. Bodies designated in accordance with Article 124 of this Regulation for ERDF, Cohesion Fund, ESF, EMFF and with Article 65 of the EAFRD Regulation for the EAFRD shall not carry out on-the spot verifications of operations comprising financial instruments implemented under point (a) of Article 38(1). Those designated bodies shall receive regular control reports from the bodies entrusted with the implementation of those financial instruments.

2. The bodies responsible for the audit of programmes shall not carry out audits of operations comprising financial instruments implemented under point (a) of Article 38(1) and of management and control systems relating to those financial instruments. They shall receive regular control reports from the auditors designated in the agreements setting up those financial instruments.

3. The bodies responsible for the audit of programmes may conduct audits at the level of final recipients only when one or more of the following situations occur:

(a) supporting documents, providing evidence of the support from the financial instrument to final recipients and of its use for the intended purposes in line with applicable law, are not available at the level of the managing authority or at the level of the bodies that implement financial instruments;

(b) there is evidence that the documents available at the level of the managing authority or at the level of the bodies that implement financial instruments do not represent a true and accurate record of the support provided.

4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, concerning the management and control of financial instruments referred to in point (b) of Article 38(1), including controls to be performed by managing and audit authorities, arrangements for keeping supporting documents, elements to be evidenced by supporting documents, and management and control and audit arrangements. The Commission shall notify those delegated acts simultaneously to the European Parliament and the Council by 22 April 2014.

5. The bodies implementing financial instruments shall be responsible for ensuring that supporting documents are available and shall not impose on final recipients record-keeping requirements that go beyond what is necessary to enable them to fulfil that responsibility.

*Article 41***Requests for payment including expenditure for financial instruments**

1. As regards financial instruments referred to in point (a) of Article 38(1) and financial instruments referred to in point (b) of Article 38(1) implemented in accordance with points (a) and (b) of Article 38(4), phased applications for interim payments shall be made for programme contributions paid to the financial instrument during the eligibility period laid down in Article 65(2) (the 'eligibility period') in accordance with the following conditions:

- (a) the amount of the programme contribution paid to the financial instrument included in each application for interim payment submitted during the eligibility period shall not exceed 25 % of the total amount of programme contributions committed to the financial instrument under the relevant funding agreement, corresponding to expenditure within the meaning of points (a), (b) and (d) of Article 42(1) expected to be paid during the eligibility period. Applications for interim payment submitted after the eligibility period shall include the total amount of eligible expenditure within the meaning of Article 42;
- (b) each application for interim payment referred to in point (a) of this paragraph may include up to 25 % of the total amount of the national co-financing as referred to in Article 38(9) expected to be paid to the financial instrument, or at the level of final recipients for expenditure in the meaning of points (a), (b) and (d) of Article 42(1), within the eligibility period;
- (c) subsequent applications for interim payment submitted during the eligibility period shall only be made:
 - (i) for the second application for interim payment, when at least 60 % of the amount included in the first application for interim payments has been spent as eligible expenditure within the meaning of points (a), (b) and (d) of Article 42(1);
 - (ii) for the third and subsequent applications for interim payment, when at least 85 % of the amounts included in the previous applications for interim payments have been spent as eligible expenditure within the meaning of points (a), (b) and (d) of Article 42(1);
- (d) each application for interim payment, which includes expenditure related to financial instruments, shall separately disclose the total amount of programme contributions paid to the financial instrument and the amounts paid as eligible expenditure within the meaning of points (a), (b) and (d) of Article 42(1).

At closure of a programme, the application for payment of the final balance shall include the total amount of eligible expenditure as referred to in Article 42.

2. As regards financial instruments referred to in point (b) of Article 38(1) implemented in accordance with point (c) of Article 38(4), the applications for interim payments and for payment of the final balance shall include the total amount of the payments effected by the managing authority for investments in final recipients as referred to in points (a) and (b) of Article 42(1).

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 149, laying down the rules for withdrawal of payments to financial instruments and consequent adjustments in respect of applications for payments.

4. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts laying down the models to be used when submitting additional information concerning financial instruments with the applications for payments to the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

*Article 42***Eligible expenditure at closure**

1. At closure of a programme, the eligible expenditure of the financial instrument shall be the total amount of programme contributions effectively paid or, in the case of guarantees, committed by the financial instrument within the eligibility period, corresponding to:

- (a) payments to final recipients, and in the cases referred to in Article 37(7) payments to the benefit of final recipients;
- (b) resources committed for guarantee contracts, whether outstanding or already come to maturity, in order to honour possible guarantee calls for losses, calculated on the basis of a prudent ex ante risk assessment, covering a multiple amount of underlying new loans or other risk-bearing instruments for new investments in final recipients;
- (c) capitalised interest rate subsidies or guarantee fee subsidies, due to be paid for a period not exceeding 10 years after the eligibility period, used in combination with financial instruments, paid into an escrow account specifically set up for that purpose, for effective disbursement after the eligibility period, but in respect of loans or other risk-bearing instruments disbursed for investments in final recipients within the eligibility period;
- (d) reimbursement of management costs incurred or payment of management fees of the financial instrument.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 laying down the specific rules concerning the establishment of a system of capitalisation of annual instalments for interest rate subsidies and guarantee fee subsidies referred to in point (c) of the first subparagraph.

2. In the case of equity-based instruments and micro-credit, capitalised management costs or fees due to be paid for a period not exceeding six years after the eligibility period, in respect of investments in final recipients which occurred within the eligibility period, which cannot be covered by Articles 44 or 45, may be considered as eligible expenditure when paid into an escrow account specifically set up for that purpose.

3. In the case of equity-based instruments targeting enterprises referred to in Article 37(4) for which the funding agreement referred to in point (b) of Article 38(7) was signed before 31 December 2017, which by the end of the eligibility period invested at least 55 % of the programme resources committed in the relevant funding agreement, a limited amount of payments for investments in final recipients to be made for a period not exceeding four years after the end of eligibility period may be considered as eligible expenditure, when paid into an escrow account specifically set up for that purpose, provided that State aid rules are complied with and that all of the conditions set out below are fulfilled.

The amount paid into the escrow account:

- (a) shall be used solely for follow-on investments in final recipients having received initial equity investments from the financial instrument within the eligibility period, which are still wholly or partially outstanding;
- (b) shall be used solely for follow-on investments to be made in accordance with market standards and market standard contractual arrangements and limited to the minimum necessary to stimulate private sector co-investment, while ensuring continuity of financing for the target enterprises so that both public and private investors can benefit from investments;
- (c) shall not exceed 20 % of the eligible expenditure of the equity-based instrument referred to in point (a) of the first subparagraph of paragraph 1 from which ceiling capital resources and gains returned to that equity-based instrument during the eligibility period shall be deducted.

Any amounts paid into the escrow account which are not used for investments in final recipients paid in the period referred to in the first subparagraph shall be used in accordance with Article 45.

4. The eligible expenditure disclosed in accordance with paragraphs 1 and 2 shall not exceed the sum of the:

- (a) total amount of the support from the ESI Funds paid for the purposes of paragraphs 1 and 2; and
- (b) corresponding national co-financing.

5. Management cost and fees as referred to in point (d) of the first subparagraph of paragraph 1 and in paragraph 2 of this Article may be charged by the body implementing the fund of funds or bodies implementing financial instruments pursuant to points (a) and (b) of Article 38(4) and shall not exceed the thresholds defined in the delegated act referred to in paragraph 6 of this Article. Whereas management costs shall comprise direct or indirect cost items reimbursed against evidence of expenditure, management fees shall refer to an agreed price for services rendered established via a competitive market process, where applicable. Management costs and fees shall be based on a performance based calculation methodology.

Management costs and fees may comprise arrangement fees. Where arrangement fees, or any part thereof, are charged to final recipients, they shall not be declared as eligible expenditure.

Management costs and fees, including those incurred for preparatory work in relation to the financial instrument before the signature of the relevant funding agreement, shall be eligible as from the date of signature of the relevant funding agreement.

6. The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, laying down the specific rules setting out the criteria for determining management costs and fees on the basis of performance and the applicable thresholds as well as rules for the reimbursement of capitalised management costs and fees for equity-based instruments and micro-credit.

Article 43

Interest and other gains generated by support from the ESI Funds to financial instruments

1. Support from the ESI Funds paid to financial instruments shall be placed in accounts domiciled within financial institutions in Member States and shall be invested on a temporary basis in accordance with the principles of sound financial management.

2. Interest and other gains attributable to support from the ESI Funds paid to financial instruments shall be used for the same purposes, including the reimbursement of management costs incurred or payment of management fees of the financial instrument in accordance with point (d) of the first subparagraph of Article 42(1), and expenditure paid in accordance with Article 42(2), as the initial support from the ESI Funds either within the same financial instrument, or following the winding up of the financial instrument, in other financial instruments or forms of support in accordance with the specific objectives set out under a priority, until the end of the eligibility period.

3. The managing authority shall ensure that adequate records of the use of interest and other gains are maintained.

Article 44

Re-use of resources attributable to the support from the ESI Funds until the end of the eligibility period

1. Resources paid back to financial instruments from investments or from the release of resources committed for guarantee contracts, including capital repayments and gains and other earnings or yields, such as interest, guarantee fees, dividends, capital gains or any other income generated by investments, which are attributable to the support from the ESI Funds, shall be re-used for the following purposes, up to the amounts necessary and in the order agreed in the relevant funding agreements:

- (a) further investments through the same or other financial instruments, in accordance with the specific objectives set out under a priority;
- (b) where applicable, preferential remuneration of private investors, or public investors operating under the market economy principle, who provide counterpart resources to the support from the ESI Funds to the financial instrument or who co-invest at the level of final recipients;
- (c) where applicable, reimbursement of management costs incurred and payment of management fees of the financial instrument.

The need and the level for preferential remuneration pursuant to point (b) of the first subparagraph shall be established in the ex-ante assessment. The preferential remuneration shall not exceed what is necessary to create the incentives for attracting private counterpart resources and shall not over-compensate private investors, or public investors operating under the market economy principle. The alignment of interest shall be ensured through an appropriate sharing of risk and profit and shall be carried out on a normal commercial basis and be compatible with Union State aid rules.

2. The managing authority shall ensure that adequate records of the use of the resources referred to in paragraph 1 are maintained.

Article 45

Use of resources after the end of the eligibility period

Member States shall adopt the necessary measures to ensure that resources paid back to financial instruments, including capital repayments and gains and other earnings or yields generated during a period of at least eight years after the end of the eligibility period, which are attributable to the support from the ESI Funds to financial instruments pursuant to

Article 37, are used in accordance with the aims of the programme or programmes, either within the same financial instrument or, following the exit of those resources from the financial instrument, in other financial instruments provided that, in both cases, an assessment of market conditions demonstrates a continuing need for such investment, or in other forms of support.

Article 46

Report on implementation of financial instruments

1. The managing authority shall send to the Commission a specific report covering the operations comprising financial instruments as an annex to the annual implementation report.

2. The specific report referred to in paragraph 1 shall include, for each financial instrument, the following information:

- (a) identification of the programme and of the priority or measure from which support from the ESI Funds is provided;
- (b) description of the financial instrument and implementation arrangements;
- (c) identification of the bodies implementing financial instruments, and the bodies implementing funds of funds where applicable, as referred to under point (a) of Article 38(1), points (a), (b) and (c) of Article 38(4), and the financial intermediaries referred to under Article 38(6);
- (d) total amount of programme contributions by priority or measure paid to the financial instrument;
- (e) total amount of support paid to the final recipients or to the benefit of final recipients, or committed in guarantee contracts by the financial instrument for investments in final recipients, as well as management costs incurred or management fees paid, by programme and priority or measure;
- (f) the performance of the financial instrument including progress in its set-up and in selection of bodies implementing the financial instrument, including the body implementing a fund of funds;
- (g) interest and other gains generated by support from the ESI Funds to the financial instrument and programme resources paid back to financial instruments from investments as referred to in Articles 43 and 44;
- (h) progress in achieving the expected leverage effect of investments made by the financial instrument and value of investments and participations;

- (i) the value of equity investments, with respect to previous years;
- (j) contribution of the financial instrument to the achievement of the indicators of the priority or measure concerned.

The information in points (h) and (j) of the first subparagraph may be included only in the annex to the annual implementation reports submitted in 2017 and 2019 as well as in the final implementation report. The reporting obligations set out in points (a) to (j) of the first subparagraph shall not be applied at the level of final recipients.

3. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts establishing the models to be used when reporting on financial instruments to the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

4. Each year, starting in 2016, the Commission shall, within six months of the deadline for the submission of the annual implementation reports referred to in Article 111(1) for the ERDF, ESF and the Cohesion Fund, Article 75 of the EAFRD Regulation for the EAFRD, and the relevant provisions of Funds-specific rules for the EMFF, provide summaries of the data on the progress made in financing and implementing the financial instruments, sent by the managing authorities in accordance with this Article. Those summaries shall be transmitted to the European Parliament and the Council and shall be made public.

TITLE V

MONITORING AND EVALUATION

CHAPTER I

Monitoring

Section I

Monitoring of programmes

Article 47

Monitoring committee

1. Within three months of the date of notification to the Member State of the Commission decision adopting a programme, the Member State shall set up a committee, in accordance with its institutional, legal and financial framework, to monitor implementation of the programme, in agreement with the managing authority (the "monitoring committee").

A Member State may set up a single monitoring committee to cover more than one programme co-financed by the ESI Funds.

2. Each monitoring committee shall draw up and adopt its rules of procedure in accordance with the institutional, legal and financial framework of the Member State concerned.

3. The monitoring committee of a programme under the European territorial cooperation goal shall be set up by the

Member States participating in the cooperation programme and by third countries, in the event that they have accepted the invitation to participate in the cooperation programme, in agreement with the managing authority within three months of the date of notification of the decision adopting the cooperation programme to the Member States. That monitoring committee shall draw up and adopt its rules of procedure.

Article 48

Composition of the monitoring committee

1. The composition of the monitoring committee shall be decided by the Member State, provided that the monitoring committee is composed of representatives of the relevant Member State authorities and intermediate bodies and of representatives of the partners referred to in Article 5. Representatives of the partners shall be delegated to be part of the monitoring committee by the respective partners through transparent processes. Each member of the monitoring committee may have a voting right.

The composition of the monitoring committee of a programme under the European territorial goal shall be agreed by the Member States participating in the programme and by third countries in the event that they have accepted the invitation to participate in the cooperation programme. The monitoring committee shall include relevant representatives of those Member States and third countries. The monitoring committee may include representatives of the EGTC carrying out activities related to the programme within the programme area.

2. The list of the members of the monitoring committee shall be published.

3. The Commission shall participate in the work of the monitoring committee in an advisory capacity.

4. If the EIB contributes to a programme, it may participate in the work of the monitoring committee in an advisory capacity.

5. The monitoring committee shall be chaired by a representative of the Member State or of the managing authority.

Article 49

Functions of the monitoring committee

1. The monitoring committee shall meet at least once a year and shall review implementation of the programme and progress made towards achieving its objectives. In doing so, it shall have regard to the financial data, common and programme-specific indicators, including changes in the value of result indicators and progress towards quantified target values, and the milestones defined in the performance framework referred to in Article 21(1), and, where relevant, the results of qualitative analyses.

2. The monitoring committee shall examine all issues that affect the performance of the programme, including the conclusions of the performance reviews.

3. The monitoring committee shall be consulted and shall, if it considers it to be appropriate, give an opinion on any amendment of the programme proposed by the managing authority.

4. The monitoring committee may make observations to the managing authority regarding implementation and evaluation of the programme including actions related to the reduction of the administrative burden on beneficiaries. The monitoring committee shall monitor actions taken as a result of its observations.

Article 50

Implementation reports

1. From 2016 until and including 2023, each Member State shall submit to the Commission an annual report on implementation of the programme in the previous financial year. Each Member State shall submit to the Commission a final report on implementation of the programme for the ERDF, the ESF and the Cohesion Fund and an annual implementation report for the EAFRD and the EMFF by the deadline established in the Fund-specific rules.

2. Annual implementation reports shall set out key information on implementation of the programme and its priorities by reference to the financial data, common and programme-specific indicators and quantified target values, including changes in the value of result indicators where appropriate, and, beginning from the annual implementation report to be submitted in 2017, the milestones defined in the performance framework. The data transmitted shall relate to values for indicators for fully implemented operations and also, where possible, having regard to the stage of implementation, for selected operations. They shall also set out a synthesis of the findings of all evaluations of the programme that have become available during the previous financial year, any issues which affect the performance of the programme, and the measures taken. The annual implementation report to be submitted in 2016 may also set out, where relevant, actions taken to fulfil ex ante conditionalities.

3. By way of derogation from paragraph 2, specific rules on the data to be transmitted for the ESF may be established in the ESF Regulation.

4. The annual implementation report to be submitted in 2017 shall set out and assess the information referred to in paragraph 2 and progress made towards achieving the objectives of the programme, including the contribution of the ESI Funds to changes in the value of result indicators, when evidence is available from relevant evaluations. That annual implementation report shall set out the actions taken to fulfil the ex-ante conditionalities not fulfilled at the time of adoption of the programmes. It shall also assess the implementation of actions to take into account the principles set out in Articles 7 and 8, the role of the partners referred to in Article 5 in the implementation of the programme and report on support used for climate change objectives.

5. The annual implementation report to be submitted in 2019 and the final implementation report for the ESI Funds shall, in addition to the information and assessment referred to

in paragraphs 2 and 3, include information on, and assess progress towards, achieving the objectives of the programme and its contribution to achieving the Union strategy for smart, sustainable and inclusive growth.

6. In order to be deemed admissible, the annual implementation reports referred to in paragraphs 1 to 5 shall contain all the information required in those paragraphs and in the Fund-specific rules.

The Commission shall inform the Member State within 15 working days of the date of receipt of the annual implementation report if it is not admissible, failing which it shall be deemed admissible.

7. The Commission shall examine the annual and final implementation report and inform the Member State of its observations within two months of the date of receipt of the annual implementation report and within five months of the date of receipt of the final implementation report. Where the Commission does not provide observations within those deadlines, the reports shall be deemed to be accepted.

8. The Commission may make observations to the managing authority concerning issues which significantly affect the implementation of the programme. Where such observations are made, the managing authority shall provide all necessary information with regard to those observations and, where appropriate, inform the Commission, within three months, of measures taken.

9. The annual and final implementation reports, as well as a summary for citizens of their content, shall be made available to the public.

Article 51

Annual review meeting

1. An annual review meeting shall be organised every year from 2016 until and including 2023 between the Commission and each Member State to examine the performance of each programme, taking account of the annual implementation report and the Commission's observations where applicable.

2. The annual review meeting may cover more than one programme. In 2017 and 2019, the annual review meeting shall cover all programmes in the Member State and shall also take account of the progress reports submitted by the Member State, in accordance with Article 52, in those years.

3. By way of derogation from paragraph 1, the Member State and the Commission may agree not to organise an annual review meeting for a programme in years other than 2017 and 2019.

4. The annual review meeting shall be chaired by the Commission or, if the Member State so requests, co-chaired by the Member State and the Commission.

5. The Member State shall ensure that appropriate follow-up is given to comments of the Commission following the annual review meeting concerning issues which significantly affect the implementation of the programme and, where appropriate, inform the Commission, within three months, of the measures taken.

Section II

Strategic progress

Article 52

Progress report

1. By 31 August 2017 and by 31 August 2019, the Member State shall submit to the Commission a progress report on implementation of the Partnership Agreement as at 31 December 2016 and 31 December 2018 respectively.

2. The progress report shall set out information on and assess:

- (a) changes in the development needs in the Member State since the adoption of the Partnership Agreement;
- (b) progress made towards achievement of the Union strategy for smart, sustainable and inclusive growth, as well as of the Fund-specific missions referred to in Article 4(1), through the contribution of the ESI Funds to the thematic objectives selected, and in particular with regard to the milestones set out in the performance framework for each programme, and to the support used for climate change objectives;
- (c) whether the actions taken to fulfil the applicable ex ante conditionalities set out in the Partnership Agreement not fulfilled at the date of adoption of the Partnership Agreement have been implemented in accordance with the timetable established. This point shall only apply to the progress report to be submitted in 2017;
- (d) implementation of mechanisms to ensure coordination between the ESI Funds and other Union and national funding instruments and with the EIB;
- (e) implementation of the integrated approach to territorial development, or a summary of the implementation of the integrated approaches that are based on the programmes, including progress towards achievement of priority areas established for cooperation;
- (f) where appropriate, actions taken to reinforce the capacity of the Member State authorities and beneficiaries to administer and use the ESI Funds;
- (g) actions taken, and progress made, with regard to reducing the administrative burden on beneficiaries;

(h) the role of the partners referred to in Article 5 in the implementation of the Partnership Agreement;

(i) a summary of the actions taken in relation to the application of the horizontal principles referred to in Articles 5, 7 and 8 and policy objectives for the implementation of the ESI Funds.

3. Where the Commission determines, within two months of the date of submission of the progress report, that the information submitted is incomplete or unclear in a manner which significantly affects the quality and reliability of the assessment concerned, it may request additional information from the Member State, on condition that that request does not cause unjustified delays and that the Commission provides reasons to substantiate the alleged lack of quality and reliability. The Member State shall provide to the Commission the information requested within three months and, where appropriate, shall revise the progress report accordingly.

4. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts establishing the model to be used when submitting the progress report. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

Article 53

Reporting by the Commission and debate on the ESI Funds

1. The Commission shall transmit each year from 2016 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, a summary report in relation to ESI Fund programmes based on the annual implementation reports of the Member States submitted under Article 50 as well as a synthesis of the findings of the available evaluations of programmes. In 2017 and 2019 the summary report shall form a part of the strategic report referred to in paragraph 2.

2. In 2017 and 2019, the Commission shall prepare a strategic report summarising the progress reports of the Member States, which by 31 December 2017 and 31 December 2019, respectively, it shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and those institutions shall be invited to hold a debate on it.

3. The Council shall debate the strategic report in particular with regard to the contribution of the ESI Funds to the achievement of the Union strategy for smart, sustainable and inclusive growth and shall be invited to provide input to the spring meeting of the European Council.

4. Every two years from 2018, the Commission shall include in its Annual Progress Report to the spring meeting of the European Council a section summarising the most recent of the reports referred to in paragraphs 1 and 2, in particular with regard to the contribution of the ESI Funds to progress made towards the Union strategy for smart, sustainable and inclusive growth.

CHAPTER II

Evaluation

Article 54

General Provisions

1. Evaluations shall be carried out to improve the quality of the design and implementation of programmes, as well as to assess their effectiveness, efficiency and impact. The impact of programmes shall be evaluated, in the light of the mission of each ESI Fund, in relation to the targets under the Union strategy for smart, sustainable and inclusive growth and, having regard to the size of the programme, in relation to GDP and unemployment in the programme area concerned, where appropriate.

2. Member States shall provide the resources necessary for carrying out evaluations, and shall ensure that procedures are in place to produce and collect the data necessary for evaluations, including data related to common and where appropriate programme-specific indicators.

3. Evaluations shall be carried out by internal or external experts that are functionally independent of the authorities responsible for programme implementation. The Commission shall provide guidance on how to carry out evaluations, immediately following the entry into force of this Regulation.

4. All evaluations shall be made available to the public.

Article 55

Ex ante evaluation

1. Member States shall carry out ex ante evaluations to improve the quality of the design of each programme.

2. Ex ante evaluations shall be carried out under the responsibility of the authority responsible for the preparation of the programmes. They shall be submitted to the Commission at the same time as the programme, together with an executive summary. The Fund-specific rules may establish thresholds below which the ex ante evaluation may be combined with the evaluation for another programme.

3. Ex ante evaluations shall appraise:

- (a) the contribution to the Union strategy for smart, sustainable and inclusive growth, having regard to the selected thematic objectives and priorities, taking into account national and regional needs and potential for development as well as lessons drawn from previous programming periods;
- (b) the internal coherence of the proposed programme or activity and its relationship with other relevant instruments;
- (c) the consistency of the allocation of budgetary resources with the objectives of the programme;
- (d) the consistency of the selected thematic objectives, the priorities and corresponding objectives of the programmes

with the CSF, the Partnership Agreement and the relevant country specific recommendations adopted in accordance with Article 121(2) TFEU and where appropriate at national level, the National Reform Programme;

- (e) the relevance and clarity of the proposed programme indicators;
 - (f) how the expected outputs will contribute to results;
 - (g) whether the quantified target values for indicators are realistic, having regard to the support envisaged from the ESI Funds;
 - (h) the rationale for the form of support proposed;
 - (i) the adequacy of human resources and administrative capacity for management of the programme;
 - (j) the suitability of the procedures for monitoring the programme and for collecting the data necessary to carry out evaluations;
 - (k) the suitability of the milestones selected for the performance framework;
 - (l) the adequacy of planned measures to promote equal opportunities between men and women and to prevent any discrimination, in particular as regards accessibility for persons with disabilities;
 - (m) the adequacy of planned measures to promote sustainable development;
 - (n) measures planned to reduce the administrative burden on beneficiaries.
4. Ex ante evaluations shall incorporate, where appropriate, the requirements for strategic environmental assessment set out in Directive 2001/42/EC of the European Parliament and of the Council ⁽¹⁾ taking into account climate change mitigation needs.

Article 56

Evaluation during the programming period

1. An evaluation plan shall be drawn up by the managing authority or Member State and may cover more than one programme. It shall be submitted in accordance with the Fund-specific rules.

2. Member States shall ensure that appropriate evaluation capacity is available.

⁽¹⁾ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

3. During the programming period, the managing authority shall ensure that evaluations, including evaluations to assess effectiveness, efficiency and impact, are carried out for each programme on the basis of the evaluation plan and that each evaluation is subject to appropriate follow-up in accordance with the Fund-specific rules. At least once during the programming period, an evaluation shall assess how support from the ESI Funds has contributed to the objectives for each priority. All evaluations shall be examined by the monitoring committee and sent to the Commission.

4. The Commission may carry out, at its own initiative, evaluations of programmes. It shall inform the managing authority and the results shall be sent to the managing authority and provided to the monitoring committee concerned.

5. Paragraphs 1, 2 and 3 of this Article shall not apply to the dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4).

Article 57

Ex post evaluation

1. The ex post evaluations shall be carried out by the Commission, or by the Member States in close cooperation with the Commission. Ex post evaluations shall examine the effectiveness and efficiency of the ESI Funds and their contribution to the Union strategy for smart, sustainable and inclusive growth taking account of the targets established in that Union strategy and in accordance with specific requirements established in the Fund-specific rules.

2. Ex post evaluations shall be completed by 31 December 2024.

3. The ex-post evaluation of the dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) shall be carried out by the Commission and completed by 31 December 2019.

4. For each of the ESI Funds, the Commission shall prepare, by 31 December 2025, a synthesis report outlining the main conclusions of ex-post evaluations.

TITLE VI

TECHNICAL ASSISTANCE

Article 58

Technical assistance at the initiative of the Commission

1. At the initiative of the Commission, the ESI Funds may support the preparatory, monitoring, administrative and technical assistance, evaluation, audit and control measures necessary for implementing this Regulation.

The measures referred to in the first subparagraph may be implemented either directly by the Commission or indirectly, by entities and persons other than Member States in accordance with Article 60 of the Financial Regulation.

The measures referred to in the first subparagraph may include in particular:

- (a) assistance for project preparation and appraisal, including with the EIB;
- (b) support for institutional strengthening and administrative capacity-building for the effective management of the ESI Funds;
- (c) studies linked to the Commission's reporting on the ESI Funds and the cohesion report;
- (d) measures related to the analysis, management, monitoring, information exchange and implementation of the ESI Funds, as well as measures relating to the implementation of control systems and technical and administrative assistance;
- (e) evaluations, expert reports, statistics and studies, including those of a general nature, concerning the current and future operation of the ESI Funds, which may be carried out where appropriate by the EIB;
- (f) actions to disseminate information, support networking, carry out communication activities, raise awareness and promote cooperation and exchange of experience, including with third countries;
- (g) the installation, operation and interconnection of computerised systems for management, monitoring, audit, control and evaluation;
- (h) actions to improve evaluation methods and the exchange of information on evaluation practices;
- (i) actions related to auditing;
- (j) the strengthening of national and regional capacity regarding investment planning, needs assessment, preparation, design and implementation of financial instruments, joint action plans and major projects, including joint initiatives with the EIB;
- (k) the dissemination of good practices in order to assist Member States to strengthen the capacity of the relevant partners referred to in Article 5 and their umbrella organisations;
- (l) measures to identify, prioritize and implement structural and administrative reforms in response to economic and social challenges in Member States which meet the conditions set out in Article 24(1).

To bring about greater efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission, the resources allocated to communication actions under this Regulation shall also contribute to the corporate communication of the political priorities of the Union as far as they are related to the general objectives of this Regulation.

2. The Commission shall set out each year its plans on the type of actions related to the measures listed in paragraph 1, when a contribution from the ESI Funds is envisaged, by means of implementing acts.

Article 59

Technical assistance at the initiative of the Member States

1. At the initiative of a Member State, the ESI Funds may support actions for preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit. The ESI Funds may be used by the Member State to support actions for the reduction of the administrative burden on beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use those Funds. The ESI Funds may also be used to support actions to reinforce the capacity of relevant partners in line with point (e) of Article 5(3) and to support exchange of good practices between such partners. The actions referred to in this paragraph may concern previous and subsequent programming periods.

2. The Fund-specific rules may add or exclude actions which may be financed by the technical assistance of each ESI Fund.

TITLE VII

FINANCIAL SUPPORT FROM THE ESI FUNDS

CHAPTER I

Support from the ESI Funds

Article 60

Determination of co-financing rates

1. The Commission decision adopting a programme shall fix the co-financing rate or rates and the maximum amount of support from the ESI Funds in accordance with the Fund-specific rules.

2. Technical assistance measures implemented at the initiative of, or on behalf of, the Commission may be financed at the rate of 100 %.

Article 61

Operations generating net revenue after completion

1. This Article shall apply to operations which generate net revenue after their completion. For the purposes of this Article 'net revenue' means cash in-flows directly paid by users for the goods or services provided by the operation, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, or payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period. Operating cost-savings generated by the operation shall be treated as net revenue unless they are offset by an equal reduction in operating subsidies.

Where not all the investment cost is eligible for co-financing, the net revenue shall be allocated pro rata to the eligible and non-eligible parts of the investment cost.

2. The eligible expenditure of the operation to be co-financed from the ESI Funds shall be reduced in advance taking into account the potential of the operation to generate net revenue over a specific reference period that covers both implementation of the operation and the period after its completion.

3. The potential net revenue of the operation shall be determined in advance by one of the following methods chosen by the managing authority for a sector, subsector or type of operation:

- (a) application of a flat rate net revenue percentage for the sector or subsector applicable to the operation as defined in Annex V or in any of the delegated acts referred to in the second, third and fourth subparagraphs;
- (b) calculation of the discounted net revenue of the operation, taking into account the reference period appropriate to the sector or subsector applicable to the operation, the profitability normally expected of the category of investment concerned, the application of the polluter-pays principle and, if appropriate, considerations of equity linked to the relative prosperity of the Member State or region concerned.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 in duly justified cases to amend Annex V by adjusting the flat rates established therein taking into account historical data, the potential for cost recovery and the polluter-pays principle where applicable.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 establishing flat rates for sectors or subsectors within the fields of ICT, RDI and energy efficiency. The Commission shall notify the delegated acts to the European Parliament and the Council not later than 30 June 2015.

In addition, the Commission shall be empowered to adopt delegated acts in accordance with Article 149 in duly justified cases with regard to adding sectors or subsectors, including subsectors for sectors in Annex V, falling under the thematic objectives defined in the first paragraph of Article 9 and supported by the ESI Funds.

Where the method referred to in point (a) of the first subparagraph is applied, all the net revenue generated during implementation and after completion of the operation shall be considered to be taken into account by the application of the flat rate and shall therefore not be deducted subsequently from the eligible expenditure of the operation.

When a flat rate for a new sector or subsector has been established by the adoption of a delegated act in accordance with the third and fourth subparagraphs, a managing authority may choose to apply the method set out in point (a) of the first subparagraph for new operations in relation to the sector or subsector concerned.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, laying down the method referred to in point (b) of the first subparagraph. Where that method is applied, the net revenue generated during implementation of the operation, resulting from sources of revenue not taken into account in determining the potential net revenue of the operation, shall be deducted from the eligible expenditure of the operation, no later than in the final payment claim submitted by the beneficiary.

4. The method by which the net revenue is deducted from the expenditure of the operation included in the request for payment submitted to the Commission shall be determined in accordance with national rules.

5. As an alternative to the application of the methods laid down in paragraph 3, the maximum co-financing rate referred to in Article 60(1) may, at the request of a Member State, be decreased at the moment of adoption of a programme for a priority or measure under which all operations supported under that priority or measure could apply a uniform flat rate in accordance with point (a) of the first subparagraph of paragraph 3. The decrease shall be not less than the amount calculated by multiplying the maximum Union co-financing rate applicable under the Fund-specific rules by the relevant flat rate referred to in point (a) of the first subparagraph of paragraph 3.

Where the method referred to in the first subparagraph is applied, all net revenue generated during implementation, and after completion, of the operation shall be considered to be taken into account by application of the decreased co-financing rate and shall therefore not be deducted subsequently from the eligible expenditure of the operations.

6. Where it is objectively not possible to determine the revenue in advance based on any of the methods set out in paragraphs 3 or 5, the net revenue generated within three years of the completion of an operation, or by the deadline for the submission of documents for programme closure fixed in the Fund-specific rules, whichever is the earlier, shall be deducted from the expenditure declared to the Commission.

7. Paragraphs 1 to 6 shall not apply to:

- (a) operations or parts of operations supported solely by the ESF;
- (b) operations whose total eligible cost before application of paragraphs 1 to 6 does not exceed EUR 1 000 000;

- (c) repayable assistance subject to an obligation for full repayment and prizes;
- (d) technical assistance;
- (e) support to or from financial instruments;
- (f) operations for which public support takes the form of lump sums or standard scale unit costs;
- (g) operations implemented under a joint action plan;
- (h) operations for which amounts or rates of support are defined in Annex II to the EAFRD Regulation.

Notwithstanding point (b) of the first subparagraph of this paragraph, where a Member State applies paragraph 5, it may include in the relevant priority or measure operations whose total eligible cost before application of paragraphs 1 to 6 does not exceed EUR 1 000 000.

8. In addition, paragraphs 1 to 6 shall not apply to operations for which support under the programme constitutes:

- (a) de minimis aid;
- (b) compatible State aid to SMEs, where an aid intensity or an aid amount limit is applied in relation to State aid;
- (c) compatible State aid, where an individual verification of financing needs in accordance with the applicable State aid rules has been carried out.

Notwithstanding the first subparagraph, a managing authority may apply the paragraphs 1 to 6 to operations which fall under points (a) to (c) of the first subparagraph of this paragraph where this is provided for in national rules.

CHAPTER II

Special rules on support from the ESI Funds to PPPs

Article 62

PPPs

The ESI Funds may be used to support PPP operations. Such PPP operations shall comply with applicable law, in particular concerning State aid and public procurement.

Article 63

Beneficiary under PPP operations

1. In relation to a PPP operation, and by way of derogation from point (10) of Article 2, a beneficiary may be either:

- (a) the public law body initiating the operation; or

(b) a body governed by private law of a Member State (the "private partner") selected or to be selected for the implementation of the operation.

2. The public law body initiating the PPP operation may propose that the private partner, to be selected after approval of the operation, be the beneficiary for the purposes of support from the ESI Funds. In that event, the approval decision shall be conditional on the managing authority satisfying itself that the selected private partner fulfils and assumes all the corresponding obligations of a beneficiary under this Regulation.

3. The private partner selected to implement the operation may be replaced as beneficiary during implementation where this is required under the terms and conditions of the PPP or the financing agreement between the private partner and the financial institution co-financing the operation. In that event the replacement private partner or public law body shall become the beneficiary provided that the managing authority satisfies itself that the replacement partner fulfils and assumes all the corresponding obligations of a beneficiary under this Regulation.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 149 laying down additional rules on the replacement of a beneficiary and on the related responsibilities.

5. The replacement of a beneficiary shall not be considered a change in ownership within the meaning of point (b) of Article 71(1) if that replacement satisfies the applicable conditions set out in paragraph 3 of this Article and in a delegated act adopted pursuant to paragraph 4 of this Article.

Article 64

Support for PPP operations

1. In the case of a PPP operation where the beneficiary is a public law body, expenditure under a PPP operation which has been incurred and paid by the private partner may, by way of derogation from Article 65(2), be considered as incurred and paid by a beneficiary and included in a request for payment to the Commission provided that the following conditions are met:

- (a) the beneficiary has entered into a PPP agreement with a private partner;
- (b) the managing authority has verified that the expenditure declared by the beneficiary has been paid by the private partner and that the operation complies with applicable Union and national law, the programme and the conditions for support of the operation.

2. Payments to beneficiaries made in respect of expenditure included in a request for payment in accordance with paragraph 1 shall be paid into an escrow account set up for that purpose in the name of the beneficiary.

3. The funds paid into the escrow account referred to in paragraph 2 shall be used for payments in accordance with

the PPP agreement, including any payments to be made in the event of termination of the PPP agreement.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 149 laying down the minimum requirements to be included in PPP agreements which are necessary for the application of the derogation laid down in paragraph 1 of this Article, including provisions related to termination of the PPP agreement and for the purpose of ensuring an adequate audit trail.

CHAPTER III

Eligibility of expenditure and durability

Article 65

Eligibility

1. The eligibility of expenditure shall be determined on the basis of national rules, except where specific rules are laid down in, or on the basis of, this Regulation or the Fund-specific rules.

2. Expenditure shall be eligible for a contribution from the ESI Funds if it has been incurred by a beneficiary and paid between the date of submission of the programme to the Commission or from 1 January 2014, whichever is earlier, and 31 December 2023. In addition, expenditure shall only be eligible for a contribution from the EAFRD if the relevant aid is actually paid by the paying agency between 1 January 2014 and 31 December 2023.

3. By way of derogation from paragraph 2, expenditure under the YEI shall be eligible as of 1 September 2013.

4. In the case of costs reimbursed pursuant to points (b) and (c) of the first subparagraph of Article 67(1), the actions constituting the basis for reimbursement shall be carried out between 1 January 2014 and 31 December 2023.

5. By way of derogation from paragraph 4, the starting date in relation to costs reimbursed on the basis of (b) and (c) of the first subparagraph of Article 67(1) for actions under the YEI shall be 1 September 2013.

6. Operations shall not be selected for support by the ESI Funds where they have been physically completed or fully implemented before the application for funding under the programme is submitted by the beneficiary to the managing authority, irrespective of whether all related payments have been made by the beneficiary.

7. This Article shall be without prejudice to the rules on eligibility of technical assistance at the initiative of the Commission set out in Article 58.

8. This paragraph shall apply to operations which generate net revenue during their implementation and to which paragraphs 1 to 6 of Article 61 do not apply.

The eligible expenditure of the operation to be co-financed from the ESI Funds shall be reduced by the net revenue not taken into account at the time of approval of the operation directly generated only during its implementation, not later than at the final payment claim submitted by the beneficiary. Where not all the costs are eligible for co-financing, the net revenue shall be allocated pro rata to the eligible and non-eligible parts of the cost.

This paragraph shall not apply to:

- (a) technical assistance;
- (b) financial instruments;
- (c) repayable assistance subject to an obligation for full repayment;
- (d) prizes;
- (e) operations subject to the State aid rules;
- (f) operations for which public support takes the form of lump sums or standard scale unit costs provided that the net revenue has been taken into account ex ante;
- (g) operations implemented under a joint action plan provided that the net revenue has been taken into account ex ante;
- (h) operations for which amounts or rates of support are defined in Annex II to the EAFRD Regulation; or
- (i) operations for which the total eligible cost does not exceed EUR 50 000.

For the purposes of this Article and Article 61, any payment received by the beneficiary arising from contractual penalties as a result of a breach of contract between the beneficiary and a third party or third parties or that has occurred as a result of the withdrawal of an offer by a third party chosen under public procurement rules (the 'deposit') shall not be considered as revenue and shall not be deducted from the eligible expenditure of the operation.

9. Expenditure that becomes eligible as a result of an amendment to a programme shall only be eligible from the date of submission to the Commission of the request for amendment or, in the event of application of Article 96(11), from the date of entry into force of the decision amending the programme.

The Fund-specific rules for the EMFF may derogate from the first subparagraph.

10. By way of derogation from paragraph 9, specific provisions on the starting date of eligibility may be established in the EAFRD Regulation.

11. An operation may receive support from one or more ESI Funds or from one or more programmes and from other Union instruments, provided that the expenditure item included in a request for payment for reimbursement by one of the ESI Funds does not receive support from another Fund or Union instrument, or support from the same Fund under another programme.

Article 66

Forms of support

The ESI Funds shall be used to provide support in the form of grants, prizes, repayable assistance and financial instruments, or a combination thereof.

In the case of repayable assistance, the support repaid to the body that provided it, or to another competent authority of the Member State, shall be kept in a separate account or separated with accounting codes and reused for the same purpose or in accordance with the objectives of the programme.

Article 67

Forms of grants and repayable assistance

1. Grants and repayable assistance may take any of the following forms:

- (a) reimbursement of eligible costs actually incurred and paid, together with, where applicable, contributions in kind and depreciation;
- (b) standard scales of unit costs;
- (c) lump sums not exceeding EUR 100 000 of public contribution;
- (d) flat-rate financing, determined by the application of a percentage to one or more defined categories of costs.

Fund-specific rules may limit the forms of grants or repayable assistance applicable to certain operations.

2. By way of derogation from paragraph 1, additional forms of grants and methods of calculation may be established in the EMFF Regulation.

3. The options referred to in paragraph 1 may be combined only where each option covers different categories of costs or where they are used for different projects forming a part of an operation or for successive phases of an operation.

4. Where an operation or a project forming a part of an operation is implemented exclusively through the public procurement of works, goods or services, only point (a) of the first subparagraph of paragraph 1 shall apply. Where the public procurement within an operation or project forming part of an operation is limited to certain categories of costs, all the options referred to in paragraph 1 may be applied.

5. The amounts referred to in points (b), (c) and (d) of the first subparagraph of paragraph 1 shall be established in one of the following ways:

- (a) a fair, equitable and verifiable calculation method based on:
 - (i) statistical data or other objective information;
 - (ii) the verified historical data of individual beneficiaries; or
 - (iii) the application of the usual cost accounting practices of individual beneficiaries;
- (b) in accordance with the rules for application of corresponding scales of unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation and beneficiary;
- (c) in accordance with the rules for application of corresponding scales of unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;
- (d) rates established by this Regulation or the Fund-specific rules;
- (e) specific methods for determining amounts established in accordance with the Fund-specific rules.

6. The document setting out the conditions for support for each operation shall set out the method to be applied for determining the costs of the operation and the conditions for payment of the grant.

Article 68

Flat rate financing for indirect costs and staff costs concerning grants and repayable assistance

1. Where the implementation of an operation gives rise to indirect costs, they may be calculated at a flat rate in one of the following ways:

- (a) a flat rate of up to 25 % of eligible direct costs, provided that the rate is calculated on the basis of a fair, equitable and verifiable calculation method or a method applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;

- (b) a flat rate of up to 15 % of eligible direct staff costs without there being a requirement for the Member State to perform a calculation to determine the applicable rate;

- (c) a flat rate applied to eligible direct costs based on existing methods and corresponding rates, applicable in Union policies for a similar type of operation and beneficiary.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 concerning the definition of the flat rate and the related methods referred to in point (c) of the first subparagraph of this paragraph.

2. For the purposes of determining staff costs relating to the implementation of an operation, the hourly rate applicable may be calculated by dividing the latest documented annual gross employment costs by 1 720 hours.

Article 69

Specific eligibility rules for grants and repayable assistance

1. Contributions in kind in the form of provision of works, goods, services, land and real estate for which no cash payment supported by invoices, or documents of equivalent probative value, has been made, may be eligible on condition that the eligibility rules of the ESI Funds and the programme so provide and that all the following criteria are fulfilled:

- (a) the public support paid to the operation which includes contributions in kind does not exceed the total eligible expenditure, excluding contributions in kind, at the end of the operation;
- (b) the value attributed to contributions in kind does not exceed the costs generally accepted on the market in question;
- (c) the value and the delivery of the contribution can be independently assessed and verified;
- (d) in the case of provision of land or real estate, a cash payment, for the purposes of a lease agreement of a nominal amount per annum not exceeding a single unit of the currency of the Member State, may be made;
- (e) in the case of contributions in kind in the form of unpaid work, the value of that work is determined by taking into account the verified time spent and the rate of remuneration for equivalent work.

The value of the land or real estate referred to in point (d) of the first subparagraph of this paragraph shall be certified by an independent qualified expert or duly authorised official body and shall not exceed the limit laid down in point (b) of paragraph 3.

2. Depreciation costs may be considered as eligible where the following conditions are fulfilled:

- (a) the eligibility rules of the programme allow for it;
- (b) the amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices for eligible costs where reimbursed in the form referred to in point (a) of the first subparagraph of Article 67(1);
- (c) the costs relate exclusively to the period of support for the operation;
- (d) public grants have not contributed towards the acquisition of the depreciated assets.

3. The following costs shall not be eligible for a contribution from the ESI Funds and from the amount of support transferred from the Cohesion Fund to the CEF as referred to in Article 92(6):

- (a) interest on debt, except in relation to grants given in the form of an interest rate subsidy or guarantee fee subsidy;
- (b) the purchase of land not built on and land built on in the amount exceeding 10 % of the total eligible expenditure for the operation concerned. For derelict sites and for those formerly in industrial use which comprise buildings, that limit shall be increased to 15 %. In exceptional and duly justified cases, the limit may be raised above the respective aforementioned percentages for operations concerning environmental conservation;
- (c) value added tax except where it is non-recoverable under national VAT legislation.

Article 70

Eligibility of operations depending on location

1. Operations supported by the ESI Funds, subject to the derogations referred to in paragraphs 2 and 3, and the Fund-specific rules, shall be located in the programme area.

2. The managing authority may accept that an operation is implemented outside the programme area but within the Union, provided that all the following conditions are satisfied:

- (a) the operation is for the benefit of the programme area;
- (b) the total amount allocated under the programme to operations located outside the programme area does not exceed 15 % of the support from the ERDF, Cohesion Fund and EMFF at the level of the priority, or 5 % of the support from the EAFRD at the level of the programme;

(c) the monitoring committee has given its agreement to the operation or types of operations concerned;

(d) the obligations of the authorities for the programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the programme under which that operation is supported or they enter into agreements with authorities in the area in which the operation is implemented.

3. For operations concerning technical assistance or promotional activities, expenditure may be incurred outside the Union provided that the conditions set out in point (a) of paragraph 2 and the obligations in relation to management, control and audit concerning the operation are fulfilled.

4. Paragraphs 1 to 3 shall not apply to programmes under the European territorial cooperation goal and paragraphs 2 and 3 shall not apply to operations supported by the ESF.

Article 71

Durability of operations

1. An operation comprising investment in infrastructure or productive investment shall repay the contribution from the ESI Funds if within five years of the final payment to the beneficiary or within the period of time set out in State aid rules, where applicable, it is subject to any of the following:

- (a) a cessation or relocation of a productive activity outside the programme area;
- (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
- (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

Sums unduly paid in respect of the operation shall be recovered by the Member State in proportion to the period for which the requirements have not been fulfilled.

Member States may reduce the time limit set out in the first subparagraph to three years in cases concerning the maintenance of investments or jobs created by SMEs.

2. An operation comprising investment in infrastructure or productive investment shall repay the contribution from the ESI Funds if within 10 years of the final payment to the beneficiary the productive activity is subject to relocation outside the Union, except where the beneficiary is an SME. Where the contribution from the ESI Funds takes the form of State aid, the period of 10 years shall be replaced by the deadline applicable under State aid rules.

3. Operations supported by the ESF and operations supported by the other ESI Funds that are not investments in infrastructure or productive investments shall repay the contribution from the Fund only where they are subject to an obligation for maintenance of investment under the applicable State aid rules and where they undergo a cessation or relocation of a productive activity within the period laid down in those rules.

4. Paragraphs 1, 2 and 3 shall not apply to contributions to or by financial instruments or to any operation which undergoes cessation of a productive activity due to a non-fraudulent bankruptcy.

5. Paragraphs 1, 2 and 3 shall not apply to natural persons who are beneficiaries of investment support and, after the completion of the investment operation, become eligible for and receive support under Regulation (EU) No 1309/2013 of the European Parliament and of the Council where the investment concerned is directly linked to the type of activity identified as eligible for support from the European Globalisation Adjustment Fund.

TITLE VIII

MANAGEMENT AND CONTROL

CHAPTER I

Management and control systems

Article 72

General principles of management and control systems

Management and control systems shall, in accordance with Article 4(8), provide for:

- (a) a description of the functions of each body involved in management and control, and the allocation of functions within each body;
- (b) compliance with the principle of separation of functions between and within such bodies;
- (c) procedures for ensuring the correctness and regularity of expenditure declared;
- (d) computerised systems for accounting, for the storage and transmission of financial data and data on indicators, for monitoring and for reporting;
- (e) systems for reporting and monitoring where the body responsible entrusts execution of tasks to another body;
- (f) arrangements for auditing the functioning of the management and control systems;
- (g) systems and procedures to ensure an adequate audit trail;

- (h) the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest on late payments.

Article 73

Responsibilities under shared management

In accordance with the principle of shared management, Member States and the Commission shall be responsible for the management and control of programmes in accordance with their respective responsibilities laid down in this Regulation and in the Fund-specific rules.

Article 74

Responsibilities of Member States

1. Member States shall fulfil the management, control and audit obligations, and assume the resulting responsibilities, which are laid down in the rules on shared management set out in the Financial Regulation and the Fund-specific rules.

2. Member States shall ensure that their management and control systems for programmes are set up in accordance with the Fund-specific rules and that those systems function effectively.

3. Member States shall ensure that effective arrangements for the examination of complaints concerning the ESI Funds are in place. The scope, rules and procedures concerning such arrangements shall be the responsibility of Member States in accordance with their institutional and legal framework. Member States shall, upon request by the Commission, examine complaints submitted to the Commission falling within the scope of their arrangements. Member States shall inform the Commission, upon request, of the results of those examinations.

4. All official exchanges of information between the Member State and the Commission shall be carried out using an electronic data exchange system. The Commission shall adopt implementing acts establishing the terms and conditions with which that electronic data exchange system is to comply. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

CHAPTER II

Commission powers and responsibilities

Article 75

Commission powers and responsibilities

1. The Commission shall satisfy itself, on the basis of available information, including information on the designation of bodies responsible for the management and control, the documents provided each year, in accordance with Article 59(5) of the Financial Regulation, by those designated bodies, control reports, annual implementation reports and audits carried out by national and Union bodies, that the Member States have set up management and control systems that comply with this Regulation and the Fund-specific rules and that those systems function effectively during the implementation of programmes.

2. Commission officials or authorised Commission representatives may carry out on-the-spot audits or checks subject to giving at least 12 working days notice to the competent national authority, except in urgent cases. The Commission shall respect the principle of proportionality by taking into account the need to avoid unjustified duplication of audits or checks carried out by Member States, the level of risk to the budget of the Union and the need to minimise the administrative burden on beneficiaries in accordance with the Fund-specific rules. The scope of such audits or checks may include, in particular, verification of the effective functioning of management and control systems in a programme or a part thereof, in operations and assessment of the sound financial management of operations or programmes. Officials or authorised representatives of the Member State may take part in such audits or checks.

Commission officials or authorised Commission representatives, duly empowered to carry out on-the-spot audits or checks, shall have access to all necessary records, documents and metadata, irrespective of the medium in which they are stored, relating to operations supported by the ESI Funds or to management and control systems. Member States shall provide copies of such records, documents and metadata to the Commission upon request.

The powers set out in this paragraph shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation. Commission officials and authorised representatives shall not take part, inter alia, in home visits or the formal questioning of persons within the framework of national legislation. However, such officials and representatives shall have access to the information thus obtained without prejudice to the competences of national courts and in full respect of the fundamental rights of the legal subjects concerned.

3. The Commission may require a Member State to take the actions necessary to ensure the effective functioning of their management and control systems or the correctness of expenditure in accordance with the Fund-specific rules.

TITLE IX

FINANCIAL MANAGEMENT, EXAMINATION AND ACCEPTANCE OF ACCOUNTS AND FINANCIAL CORRECTIONS, DECOMMITMENT

CHAPTER I

Financial management

Article 76

Budget commitments

The budget commitments of the Union in respect of each programme shall be made in annual instalments for each Fund during the period between 1 January 2014 and 31 December 2020. The budget commitments relating to the performance reserve in each programme shall be made separately from the remaining allocation to the programme.

The decision of the Commission adopting a programme shall constitute a financing decision within the meaning of Article 84 of the Financial Regulation and once notified to the Member State concerned, a legal commitment within the meaning of that Regulation.

For each programme, the budget commitments for the first instalment shall follow the adoption of the programme by the Commission.

The budget commitments for subsequent instalments shall be made by the Commission before 1 May of each year, on the basis of the decision referred to in the second paragraph of this Article, except where Article 16 of the Financial Regulation applies.

Following application of the performance framework in accordance with Article 22, where priorities have not achieved their milestones, the Commission shall where necessary decommit the corresponding appropriations committed to the programmes concerned as part of the performance reserve and shall make them available again for the programmes for which the allocation is increased as a result of an amendment approved by the Commission in accordance with Article 22(5).

Article 77

Common rules for payments

1. Payments by the Commission of the contribution from the ESI Funds to each programme shall be made in accordance with budget appropriations and subject to available funding. Each payment shall be posted to the earliest open budget commitment of the Fund concerned.

2. Payments related to the commitments of the performance reserve shall not be made prior to the definitive allocation of the performance reserve, in accordance with Article 22(3) and (4).

3. Payments shall take the form of pre-financing, interim payments and payment of the final balance.

4. For forms of support under points (b), (c) and (d) of the first subparagraph of Article 67(1) and under Articles 68 and 69, costs calculated on the applicable basis shall be regarded as eligible expenditure.

Article 78

Common rules for calculating interim payments, and payment of the final balance

The Fund-specific rules shall lay down rules for the calculation of the amount reimbursed as interim payments, and of the final balance. That amount shall be a function of the specific co-financing rate applicable to the eligible expenditure.

Article 79

Requests for payment

1. The specific procedure and information to be submitted for requests for payment in relation to each ESI Fund shall be laid down in the Fund-specific rules.

2. The request for payment to be submitted to the Commission shall provide all the information necessary for the Commission to produce accounts in accordance with Article 68(3) of the Financial Regulation.

Article 80

Use of the euro

Amounts set out in programmes submitted by Member States, forecasts of expenditure, statements of expenditure, requests for payment, accounts and expenditure mentioned in the annual and final implementation reports shall be denominated in euro.

Article 81

Payment of initial pre-financing

1. Following the Commission decision adopting the programme, an initial pre-financing amount for the whole programming period shall be paid by the Commission. The initial pre-financing amount shall be paid in instalments according to budgetary needs. The level of the instalments shall be defined in the Fund-specific rules.

2. Initial pre-financing shall be used only for payments to beneficiaries in the implementation of the programme. It shall be made available without delay to the body responsible for that purpose.

Article 82

Clearance of initial pre-financing

The amount paid as initial pre-financing shall be totally cleared from the Commission accounts not later than when the programme is closed.

Article 83

Interruption of the payment deadline

1. The payment deadline for an interim payment claim may be interrupted by the authorising officer by delegation within the meaning of the Financial Regulation for a maximum period of six months if:

- (a) following information provided by a national or Union audit body, there is clear evidence to suggest a significant deficiency in the functioning of the management and control system;
- (b) the authorising officer by delegation has to carry out additional verifications following information that has come to that officer's attention alerting him or her that expenditure in a request for payment is linked to an irregularity having serious financial consequences;
- (c) there is a failure to submit one of the documents required under Article 59(5) of the Financial Regulation.

The Member State may agree to an extension of the interruption period for another three months.

The Fund-specific rules for the EMFF may lay down specific bases for interruption of payments linked to non-compliance with rules applicable under the Common Fisheries Policy, which shall be proportionate, having regard to the nature, gravity, duration and recurrence of the non-compliance.

2. The authorising officer by delegation shall limit the interruption to the part of the expenditure covered by the payment claim affected by the elements referred to in the first subparagraph of paragraph 1, unless it is not possible to identify the part of the expenditure affected. The authorising officer by delegation shall inform the Member State and the managing authority in writing immediately of the reason for interruption and shall ask them to remedy the situation. The interruption shall be ended by the authorising officer by delegation as soon as the necessary measures have been taken.

CHAPTER II

Examination and acceptance of accounts

Article 84

Deadline for the examination and acceptance of accounts by the Commission

By 31 May of the year following the end of the accounting period, the Commission shall, in accordance with Article 59(6) of the Financial Regulation, apply procedures for the examination and acceptance of the accounts and inform the Member State as to whether it accepts that the accounts are complete, accurate and true in accordance with Fund-specific rules.

CHAPTER III

Financial corrections

Article 85

Financial corrections by the Commission

1. The Commission shall make financial corrections by cancelling all or part of the Union contribution to a programme and effecting recovery from the Member State, in order to exclude from Union financing expenditure which is in breach of applicable law.

2. A breach of applicable law shall lead to a financial correction only in relation to expenditure which has been declared to the Commission and where one of the following conditions is met:

- (a) the breach has affected the selection of an operation by the body responsible for support from the ESI Funds or in cases where, due to the nature of the breach, it is not possible to establish that impact but there is a substantiated risk that the breach has had such an effect;
- (b) the breach has affected the amount of expenditure declared for reimbursement by the budget of the Union or in cases where, due to the nature of the breach, it is not possible to quantify its financial impact but there is a substantiated risk that the breach has had such an effect.

3. When deciding on a financial correction under paragraph 1, the Commission shall respect the principle of proportionality by taking account of the nature and gravity of the breach of applicable law and its financial implications for the budget of the Union. The Commission shall keep the European Parliament informed of decisions taken to apply financial corrections.

4. The criteria and the procedures for applying financial corrections shall be laid down in the Fund-specific rules.

CHAPTER IV

Decommitment

Article 86

Principles

1. All programmes shall be submitted to a decommitment procedure established on the basis that amounts linked to a commitment which are not covered by pre-financing or by a request for payment within a defined period, including any request for payment for which all or part is subject to an interruption of the payment deadline or a suspension of payments, shall be decommitted.

2. The commitment related to the last year of the period shall be decommitted in accordance with the rules to be followed for the closure of the programmes.

3. The Fund-specific rules shall specify the precise application of the decommitment rule for each ESI Fund.

4. The part of commitments still open shall be decommitted if any of the documents required for the closure have not been submitted to the Commission by the deadlines established in the Fund-specific rules.

5. The budgetary commitments in respect of the performance reserve shall be subject only to the decommitment procedure set out in paragraph 4.

Article 87

Exception to the decommitment

1. The amount concerned by decommitment shall be reduced by the amounts equivalent to that part of the budget commitment for which:

- (a) the operations are suspended by a legal proceeding or by an administrative appeal having suspensory effect; or
- (b) it has not been possible to make a request for payment for reasons of force majeure seriously affecting implementation of all or part of the programme.

The national authorities claiming force majeure under point (b) of the first subparagraph shall demonstrate the direct consequences of the force majeure on the implementation of all or part of the programme.

For the purpose of points (a) and (b) of the first subparagraph, the reduction may be requested once, if the suspension or force

majeure lasted no longer than one year, or a number of times that corresponds to the duration of the force majeure or the number of years between the date of the legal or administrative decision suspending the implementation of the operation and the date of the final legal or administrative decision.

2. By 31 January, the Member State shall send to the Commission information on the exceptions referred to in points (a) and (b) of the first subparagraph of paragraph 1 for the amount to be declared by the end of the preceding year.

Article 88

Procedure

1. The Commission shall inform the Member State and the managing authority in good time whenever there is a risk of application of the decommitment rule under Article 86.

2. On the basis of the information it has received as of 31 January, the Commission shall inform the Member State and the managing authority of the amount of the decommitment resulting from that information.

3. The Member State shall have two months to agree to the amount to be decommitted or to submit its observations.

4. By 30 June, the Member State shall submit to the Commission a revised financing plan reflecting, for the financial year concerned, the reduced amount of support over one or more priorities of the programme taking into account the allocation by Fund and by category of region, where appropriate. Failing such submission, the Commission shall revise the financing plan by reducing the contribution from the ESI Funds for the financial year concerned. That reduction shall be allocated to each priority proportionately.

5. The Commission shall amend the decision adopting the programme, by means of implementing acts, not later than 30 September.

PART THREE

GENERAL PROVISIONS APPLICABLE TO THE ERDF, THE ESF AND THE COHESION FUND

TITLE I

OBJECTIVES AND FINANCIAL FRAMEWORK

CHAPTER I

Mission, goals and geographical coverage of support

Article 89

Mission and goals

1. The Funds shall contribute to developing and pursuing the actions of the Union leading to strengthening of its economic, social and territorial cohesion in accordance with Article 174 TFEU.

The actions supported by the Funds shall also contribute to the delivery of the Union strategy for smart, sustainable and inclusive growth.

2. For the purpose of the mission referred to in paragraph 1, the following goals shall be pursued:

- (a) Investment for growth and jobs in Member States and regions, to be supported by the Funds; and
- (b) European territorial cooperation, to be supported by the ERDF.

Article 90

Investment for growth and jobs goal

1. The Structural Funds shall support the Investment for growth and jobs goal in all regions corresponding to level 2 of the common classification of territorial units for statistics ('NUTS level 2 regions') established by Regulation (EC) No 1059/2003 amended by Regulation (EC) No 105/2007.

2. Resources for the Investment for growth and jobs goal shall be allocated among the following three categories of NUTS level 2 regions:

- (a) less developed regions, whose GDP per capita is less than 75 % of the average GDP of the EU-27;
- (b) transition regions, whose GDP per capita is between 75 % and 90 % of the average GDP of the EU-27;
- (c) more developed regions, whose GDP per capita is above 90 % of the average GDP of the EU-27.

The classification of regions under one of the three categories of regions shall be determined on the basis of how the GDP per capita of each region, measured in purchasing power parities (PPS) and calculated on the basis of Union figures for the period 2007 - 2009, relates to the average GDP of the EU-27 for the same reference period.

3. The Cohesion Fund shall support those Member States whose GNI per capita, measured in PPS and calculated on the basis of Union figures for the period 2008 - 2010, is less than 90 % of the average GNI per capita of the EU-27 for the same reference period.

The Member States eligible for funding from the Cohesion Fund in 2013, but whose nominal GNI per capita exceeds 90 % of the average GNI per capita of the EU-27 as calculated under the first subparagraph shall receive support from the Cohesion Fund on a transitional and specific basis.

4. Immediately following the entry into force of this Regulation, the Commission shall adopt a decision, by means of an implementing act, setting out the list of regions fulfilling the criteria of the three categories of regions referred to in

paragraph 2 and of Member States fulfilling the criteria of paragraph 3. That list shall be valid from 1 January 2014 to 31 December 2020.

5. In 2016, the Commission shall review the eligibility of Member States for support from the Cohesion Fund on the basis of Union GNI figures for the period 2012 - 2014 for the EU-27. Those Member States whose nominal GNI per capita falls below 90 % of the average GNI per capita of the EU-27 shall become newly eligible for support from the Cohesion Fund and those Member States which were eligible for the Cohesion Fund and whose nominal GNI per capita exceeds 90 %, shall lose their eligibility and shall receive support from the Cohesion Fund on a transitional and specific basis.

CHAPTER II

Financial framework

Article 91

Resources for economic, social and territorial cohesion

1. The resources for economic, social and territorial cohesion available for budgetary commitment for the period 2014 - 2020 shall be EUR 325 145 694 739 in 2011 prices, in accordance with the annual breakdown set out in Annex VI, of which EUR 322 145 694 739 represents the global resources allocated to the ERDF, the ESF and the Cohesion Fund and EUR 3 000 000 000 represents a specific allocation for the YEI. For the purposes of programming and subsequent inclusion in the budget of the Union, the amount of resources for economic, social and territorial cohesion shall be indexed at 2 % per year.

2. The Commission shall adopt a decision, by means of implementing acts, setting out the annual breakdown of the global resources per Member State under the Investment for growth and jobs goal and the European territorial cooperation goal, and the annual breakdown of the resources from the specific allocation for the YEI per Member State together with the list of eligible regions in accordance with the criteria and methodology set out in Annexes VII and VIII respectively, without prejudice to paragraph 3 of this Article or to Article 92(8).

3. 0,35 % of the global resources after the deduction of the support to the CEF referred to in Article 92(6), and to the aid for the most deprived referred to in Article 92(7) shall be allocated to technical assistance at the initiative of the Commission.

Article 92

Resources for the Investment for growth and jobs goal and for the European territorial cooperation goal

1. Resources for the Investment for growth and jobs goal shall amount to 96,33 % of the global resources (i.e., a total of EUR 313 197 435 409) and shall be allocated as follows:

- (a) 52,45 % (i.e., a total of EUR 164 279 015 916) for less developed regions;

- (b) 10,24 % (i.e., a total of EUR 32 084 931 311) for transition regions;
- (c) 15,67 % (i.e., a total of EUR 49 084 308 755) for more developed regions;
- (d) 21,19 % (i.e., a total of EUR 66 362 384 703) for Member States supported by the Cohesion Fund;
- (e) 0,44 % (i.e., a total of EUR 1 386 794 724) as additional funding for the outermost regions identified in Article 349 TFEU and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession.

2. In addition to the amounts set out in Article 91 and paragraph 1 of this Article, for the years 2014 and 2015, a further amount of EUR 94 200 000 and of EUR 92 400 000 respectively shall be made available as set out in the "Additional adjustments" under Annex VII. Those amounts shall be identified in the decision of the Commission referred to in Article 91(2).

3. In 2016, the Commission shall, in its technical adjustment for the year 2017 in accordance with Articles 4 and 5 of Regulation (EU, Euratom) No 1311/2013, review the total allocations under the Investment for growth and jobs goal of each Member State for 2017-2020, applying the allocation method set out in paragraphs 1 to 16 of Annex VII on the basis of the most recent statistics available and of the comparison, for the capped Member States, between the cumulated national GDP observed for the years 2014-2015 and the cumulated national GDP for the same period estimated in 2012 in accordance with paragraph 10 of Annex VII. Where there is a cumulative divergence of more than +/-5 % between the revised allocations and the total allocations, the total allocations shall be adjusted correspondingly. In accordance with Article 5 of Regulation (EU, Euratom) No 1311/2013, adjustments shall be spread in equal proportions over the years 2017-2020 and the corresponding ceilings of the financial framework shall be modified accordingly. The total net effect of the adjustments, whether positive or negative, shall not exceed EUR 4 000 000 000. Following the technical adjustment, the Commission shall adopt a decision, by means of implementing acts, setting out a revised annual breakdown of the global resources for each Member State.

4. In order to ensure that sufficient investment is targeted at youth employment, labour mobility, knowledge, social inclusion and combating poverty, the share of Structural Funds resources available for programming for operational programmes, under the Investment for growth and jobs goal allocated to the ESF in each Member State, shall not be lower than the corresponding ESF share for that Member State laid down in the operational programmes for the Convergence and Regional competitiveness and employment objectives for the 2007-2013 programming period. To that share shall be added an additional amount for each Member State determined in accordance with the method set out in Annex IX in order to ensure that the share of the ESF as a percentage of total combined resources for the Funds at

Union level, excluding the support from the Cohesion Fund for transport infrastructure under the CEF referred to in paragraph 6 and support from the Structural Funds for aid for the most deprived referred to in paragraph 7, in Member States is not less than 23,1 %. For the purposes of this paragraph, investment provided from the ESF to the YEI shall be considered to be part of the share of Structural Funds allocated to the ESF.

5. Resources for the YEI shall amount to EUR 3 000 000 000 from the specific allocation for the YEI and at least EUR 3 000 000 000 from ESF targeted investment.

6. The amount of support from the Cohesion Fund to be transferred to the CEF shall be EUR 10 000 000 000. It shall be spent for transport infrastructure projects in line with Regulation (EU) No 1316/2013 exclusively in Member States eligible for funding from the Cohesion Fund.

The Commission shall adopt a decision, by means of an implementing act, setting out the amount to be transferred from each Member State's Cohesion Fund allocation to the CEF, which amount shall be determined on a pro rata basis for the whole period. The Cohesion Fund allocation of each Member State shall be reduced accordingly.

The annual appropriations corresponding to the support from the Cohesion Fund referred to in the first subparagraph shall be entered in the relevant budget lines of the CEF as of the 2014 budgetary exercise.

The amount transferred from the Cohesion Fund to the CEF, referred to in the first subparagraph, shall be implemented by launching specific calls for projects implementing the core networks or for projects and horizontal activities identified in Part I of Annex I to Regulation (EU) No 1316/2013.

Rules applicable for the transport sector under Regulation (EU) No 1316/2013 shall apply to the specific calls referred to in the fourth subparagraph. Until 31 December 2016, the selection of projects eligible for financing shall respect the national allocations under the Cohesion Fund. As of 1 January 2017, resources transferred to the CEF which have not been committed to a transport infrastructure project shall be made available to all Member States eligible for funding from the Cohesion Fund to finance transport infrastructure projects in accordance with Regulation (EU) No 1316/2013.

In order to support Member States eligible for funding from the Cohesion Fund, which may experience difficulties in designing projects that are of a sufficient maturity, quality, or both, and which have sufficient added value for the Union, particular attention shall be given to programme support actions aimed at strengthening institutional capacity and the efficiency of public administrations and public services in relation to the development and implementation of projects listed in Part I of Annex I to the Regulation (EU) No 1316/2013. To ensure the highest possible absorption of the transferred funds in all

Member States eligible for funding from the Cohesion fund, the Commission may organise additional calls.

7. The support from the Structural Funds for aid for the most deprived under the Investment for Growth and Jobs goal shall be not less than EUR 2 500 000 000 and may be increased by up to EUR 1 000 000 000 by additional support decided on a voluntary basis by Member States.

The Commission shall adopt a decision, by means of an implementing act, setting out the amount to be transferred from each Member State's Structural Funds allocation to aid for the most deprived for the whole period. The Structural Funds allocation of each Member State shall be reduced accordingly, on the basis of a pro-rata reduction by category of region.

The annual appropriations corresponding to the support from the Structural Funds referred to in the first subparagraph shall be entered in the relevant budget lines of the aid for the most deprived instrument with the 2014 budgetary exercise.

8. EUR 330 000 000 of the Structural Funds resources for the Investment for growth and jobs goal shall be allocated to innovative actions under direct or indirect management by the Commission in the area of sustainable urban development.

9. Resources for the European territorial cooperation goal shall amount to 2,75 % of the global resources available for budgetary commitment from the Funds for the period 2014-2020 (i.e., a total of EUR 8 948 259 330).

10. For the purposes of this Article, Articles 18, 91, 93, 95, 99, 120, Annex I and Annex X of this Regulation, Article 4 of the ERDF Regulation, Article 4 and Articles 16 to 23 of the ESF Regulation, Article 3(3) of the ETC Regulation, the outermost region of Mayotte shall be considered to be a NUTS level 2 region falling into the category of less developed regions. For the purposes of Article 3(1) and (2) of the ETC Regulation, the regions of Mayotte and Saint Martin shall be considered to be NUTS level 3 regions.

Article 93

Non-transferability of resources between categories of regions

1. The total appropriations allocated to each Member State in respect of less developed regions, transition regions and more developed regions shall not be transferable between those categories of regions.

2. By way of derogation from paragraph 1, the Commission may accept, in duly justified circumstances which are linked to the implementation of one or more thematic objectives, a proposal by a Member State in its first submission of the Partnership Agreement or, in duly justified circumstances, at the time of allocation of the performance reserve, or in a major

revision of the Partnership Agreement, to transfer up to 3 % of the total appropriation for a category of regions to other categories of regions.

Article 94

Non-transferability of resources between goals

1. The total appropriations allocated to each Member State in respect of the Investment for growth and jobs goal and the European territorial cooperation goal shall not be transferable between those goals.

2. By way of derogation from paragraph 1, the Commission may in order to uphold the effective contribution of the Funds to the missions referred to in Article 89(1), in duly justified circumstances, and subject to the condition laid down in paragraph 3, accept by means of an implementing act a proposal by a Member State in its first submission of the Partnership Agreement to transfer a part of its appropriations for the European territorial cooperation goal to the Investment for growth and jobs goal.

3. The share of the European territorial cooperation goal in the Member State making the proposal referred to in paragraph 2 shall be not less than 35 % of the total allocated to that Member State in respect of the Investment for growth and jobs goal and the European territorial cooperation goal, and after transfer shall be not less than 25 % of that total.

Article 95

Additionality

1. For the purposes of this Article and Annex X, the following definitions apply:

(1) 'gross fixed capital formation' means all the resident producers' acquisitions, less disposals, of fixed assets during a given period and certain additions to the value of non-produced assets realised by the productive activity of producer or institutional units, as defined in Council Regulation (EC) No 2223/96 ⁽¹⁾;

(2) 'fixed assets' means all tangible or intangible assets produced as outputs from processes of production that are themselves used repeatedly, or continuously, in processes of production for more than one year;

(3) 'general government' means the totality of institutional units which, in addition to fulfilling their political responsibilities and their role of economic regulation, produce principally non-market services (possibly goods) for individual or collective consumption and redistribute income and wealth;

(4) 'public or equivalent structural expenditure' means the gross fixed capital formation of the general government.

⁽¹⁾ Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1).

2. Support from the Funds for the Investment for growth and jobs goal shall not replace public or equivalent structural expenditure by a Member State.

3. Member States shall maintain for the period 2014-2020 a level of public or equivalent structural expenditure on average per year at least equal to the reference level set in the Partnership Agreement.

In setting the reference level referred to in the first subparagraph, the Commission and the Member States shall take into account the general macroeconomic conditions and specific or exceptional circumstances, such as privatisations, an exceptional level of public or equivalent structural expenditure by a Member State in the 2007-2013 programming period and the evolution of other public investment indicators. They shall also take into account changes in the national allocations from the Funds as compared to the years 2007-2013.

4. Verification of whether the level of public or equivalent structural expenditure under the Investment for growth and jobs goal has been maintained for the period shall only take place in those Member States in which less developed regions cover at least 15 % of the total population.

In those Member States in which less developed regions cover at least 65 % of the total population, the verification shall take place at national level.

In those Member States in which less developed regions cover more than 15 % and less than 65 % of the total population, the verification shall take place at regional level. For that purpose, those Member States shall provide to the Commission information about the expenditure in the less developed regions at each stage of the verification process.

5. The verification of whether the level of public or equivalent structural expenditure under the Investment for growth and jobs goal has been maintained shall take place at the time of submission of the Partnership Agreement (the "ex ante verification"), in 2018 (the "mid-term verification"), and in 2022 (the "ex post verification").

The detailed rules relating to the verification of additionality are set out in point 2 of Annex X.

6. If it is established by the Commission in the ex post verification that a Member State has not maintained the reference level of public or equivalent structural expenditure under the Investment for growth and jobs goal set out in the Partnership Agreement and as set out in Annex X, the Commission may, in relation to the degree of non-compliance, carry out a financial correction by adoption of a decision by means of implementing act. In determining whether to carry out a financial correction the Commission shall take into account whether the economic situation of the Member State

has significantly changed since the mid-term verification. The detailed rules relating to financial correction rates are set out in point 3 of Annex X.

7. Paragraphs 1 to 6 shall not apply to programmes under the European territorial cooperation goal.

TITLE II

PROGRAMMING

CHAPTER I

General provisions on the Funds

Article 96

Content, adoption and amendment of operational programmes under the Investment for growth and jobs goal

1. An operational programme shall consist of priority axes. A priority axis shall concern one Fund and one category of region, except in the case of the Cohesion Fund, and shall correspond, without prejudice to Article 59, to a thematic objective and comprise one or more of the investment priorities of that thematic objective, in accordance with the Fund-specific rules. Where appropriate and in order to increase its impact and effectiveness through a thematically coherent integrated approach, a priority axis may:

- (a) concern more than one category of region;
- (b) combine one or more complementary investment priorities from the ERDF, the Cohesion Fund and the ESF under one thematic objective;
- (c) in duly justified cases combine one or more complementary investment priorities from different thematic objectives in order to achieve the maximum contribution to that priority axis;
- (d) for the ESF, combine investment priorities from different thematic objectives set out in points (8), (9), (10) and (11) of the first paragraph of Article 9 in order to facilitate their contribution to other priority axes and in order to implement social innovation and transnational cooperation.

Member States may combine two or more of the options in points (a) to (d).

2. An operational programme shall contribute to the Union strategy for smart, sustainable and inclusive growth and to the achievement of economic, social and territorial cohesion and shall set out:

- (a) a justification for the choice of thematic objectives, corresponding investment priorities and financial allocations having regard to the Partnership Agreement, based on an identification of regional and, where appropriate, national needs including the need to address the challenges identified

in relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and the relevant Council recommendations adopted in accordance with Article 148(4) TFEU, taking into account the ex ante evaluation in accordance with Article 55;

(b) for each priority axis other than technical assistance:

- (i) the investment priorities and corresponding specific objectives;
- (ii) in order to strengthen the result-orientation of the programming, the expected results for the specific objectives, and the corresponding result indicators, with a baseline value and a target value, where appropriate quantified in accordance with the Fund-specific rules;
- (iii) a description of the type and examples of actions to be supported under each investment priority and their expected contribution to the specific objectives referred to in point (i) including the guiding principles for the selection of operations and where appropriate, the identification of main target groups, specific territories targeted, types of beneficiaries, the planned use of financial instruments and major projects;
- (iv) the output indicators, including the quantified target value, which are expected to contribute to the results, in accordance with the Fund-specific rules, for each investment priority;
- (v) identification of implementation steps and financial and output indicators, and where appropriate, result indicators, to be used as milestones and targets for the performance framework in accordance with Article 21(1) and Annex II;
- (vi) the corresponding categories of intervention based on a nomenclature adopted by the Commission, and an indicative breakdown of the programmed resources;
- (vii) where appropriate, a summary of the planned use of technical assistance including, where necessary, actions to reinforce the administrative capacity of authorities involved in the management and control of the programmes and beneficiaries;

(c) for each priority axis concerning technical assistance:

- (i) specific objectives;
- (ii) the expected results for each specific objective, and, where objectively justified given the content of the actions, the corresponding result indicators, with a baseline value and a target value, in accordance with the Fund-specific rules;

(iii) a description of actions to be supported and their expected contribution to the specific objectives referred to in point (i);

(iv) the output indicators which are expected to contribute to the results;

(v) the corresponding categories of intervention based on a nomenclature adopted by the Commission, and an indicative breakdown of the programmed resources.

Point (ii) shall not apply where the Union contribution to the priority axis or axes concerning technical assistance in an operational programme does not exceed EUR 15 000 000.

(d) a financing plan containing the following tables:

- (i) tables specifying for each year, in accordance with Articles 60, 120 and 121, the amount of the total financial appropriation envisaged for the support from each of the Funds, identifying the amounts related to the performance reserve;
- (ii) tables specifying, for the whole programming period, for the operational programme and for each priority axis, the amount of the total financial appropriation of the support from each of the Funds and the national co-financing, identifying the amounts related to the performance reserve. For priority axes, which concern several categories of region, the tables shall specify the amount of total financial appropriation from the Funds and the national co-financing for each category of region.

For priority axes, which combine investment priorities from different thematic objectives, the table shall specify the amount of total financial appropriation from each of the Funds and the national co-financing for each of the corresponding thematic objectives.

Where the national co-financing is made up of public and private co-financing, the table shall give the indicative breakdown between the public and the private components. It shall show, for information purposes, the envisaged participation from the EIB;

(e) a list of major projects for which the implementation is planned during the programming period.

The Commission shall adopt implementing acts concerning the nomenclature referred to in points (b)(vi) and (c)(v) of the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

3. Taking into account its content and objectives, an operational programme shall describe the integrated approach to territorial development, having regard to the Partnership Agreement, and showing how that operational programme contributes to the accomplishment of its objectives and expected results, specifying, where appropriate, the following:

- (a) the approach to the use of community-led local development instruments and the principles for identifying the areas where it will be implemented;
- (b) the indicative amount of the ERDF support for integrated actions for sustainable urban development, to be implemented in accordance with Article 7(3) of the ERDF Regulation and the indicative allocation of ESF support for integrated actions;
- (c) the approach to the use of the ITI instrument other than in cases covered by point (b), and their indicative financial allocation from each priority axis;
- (d) the arrangements for interregional and transnational actions, within the operational programmes, with beneficiaries located in at least one other Member State;
- (e) where Member States and regions participate in macro-regional strategies and sea-basin strategies, subject to the needs of the programme area as identified by the Member State, the contribution of the planned interventions under the programme to such strategies.

4. In addition, the operational programme shall specify the following:

- (a) where appropriate, the identification of whether and how it addresses the specific needs of geographical areas most affected by poverty or social exclusion, with special regard to marginalised communities, and persons with disabilities, and where relevant the contribution to the integrated approach set out in the Partnership Agreement;
- (b) where appropriate, the identification of whether and how it addresses the demographic challenges of regions or specific needs of areas which suffer from severe and permanent natural or demographic handicaps, as referred to in Article 174 TFEU and the contribution to the integrated approach set out in the Partnership Agreement to this end.

5. The operational programme shall identify:

- (a) the managing authority, the certifying authority, where applicable, and the audit authority;
- (b) the body to which payments are to be made by the Commission;

(c) the actions taken to involve the relevant partners referred to in Article 5 in the preparation of the operational programme, and the role of those partners in the implementation, monitoring and evaluation of the operational programme.

6. The operational programme shall also set out the following, having regard to the content of the Partnership Agreement and taking into account the institutional and legal framework of the Member States:

- (a) mechanisms to ensure coordination between the Funds, the EAFRD, the EMFF and other Union and national funding instruments, and with the EIB taking into account the relevant provisions laid down in the CSF;
- (b) for each ex ante conditionality, established in accordance with Article 19 and Annex XI, which is applicable to the operational programme, an assessment of whether the ex ante conditionality is fulfilled at the date of submission of the Partnership Agreement and operational programme, and where ex ante conditionalities are not fulfilled, a description of the actions to fulfil the ex ante conditionality, the bodies responsible and a timetable for such actions in accordance with the summary submitted in the Partnership Agreement;
- (c) a summary of the assessment of the administrative burden on beneficiaries and, where necessary, the actions planned, accompanied by an indicative timeframe, to reduce the administrative burden.

7. Each operational programme, except those where technical assistance is undertaken under a specific operational programme, shall, subject to the Member State's duly justified assessment of their relevance to the content and objectives of the operational programmes, include a description of:

- (a) the specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management, in the selection of operations;
- (b) the specific actions to promote equal opportunities and prevent discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, design and implementation of the operational programme and in particular in relation to access to funding, taking account of the needs of the various target groups at risk of such discrimination and in particular the requirements to ensure accessibility for persons with disabilities;
- (c) the contribution of the operational programme to the promotion of equality between men and women and, where appropriate, the arrangements to ensure the integration of gender perspective at operational programme and operation level.

Member States may submit an opinion from the national equality bodies on the measures set out in points (b) and (c) of the first subparagraph with the proposal for an operational programme under the Investment for growth and jobs goal.

8. When a Member State prepares a maximum of one operational programme for each Fund, the elements of the operational programme falling under point (a) of the first subparagraph of paragraph 2, points (a), (c) and (d) of paragraph 3, paragraph 4 and paragraph 6 may be incorporated solely under the relevant provisions of the Partnership Agreement.

9. The operational programme shall be prepared in accordance with a model. The Commission shall, in order to ensure uniform conditions for the implementation of this Article adopt an implementing act laying down that model. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

10. The Commission shall adopt a decision, by means of implementing acts, approving all the elements, including any of its future amendments, of the operational programme falling under this Article, except those falling under points (b)(vi), (c)(v) and (e) of the first subparagraph of paragraph 2, paragraphs 4 and 5, points (a) and (c) of paragraph 6 and paragraph 7, which remain under the responsibility of the Member States.

11. The managing authority shall notify the Commission of any decision amending the elements of the operational programme not covered by the Commission decision, referred to in paragraph 10, within one month of the date of that amending decision. The amending decision shall specify the date of its entry into force, which shall not be earlier than the date of its adoption.

Article 97

Specific provisions on the programming of support for the joint instruments for uncapped guarantees and securitisation under the Investment for growth and jobs goal

In accordance with Article 28, operational programmes referred to in point (b) of the first subparagraph of Article 39(4) shall include only the elements referred to in point (b)(i), (ii) and (iv) and point (d) of the first subparagraph of Article 96(2), Article 96(5) and point (b) of Article 96(6).

Article 98

Joint support from the Funds under the Investment for growth and jobs goal

1. The Funds may jointly provide support for operational programmes under the Investment for growth and jobs goal.

2. The ERDF and the ESF may finance, in a complementary manner and subject to a limit of 10 % of Union funding for

each priority axis of an operational programme, a part of an operation for which the costs are eligible for support from the other Fund on the basis of eligibility rules applied to that Fund, provided that such costs are necessary for the satisfactory implementation of the operation and are directly linked to it.

3. Paragraphs 1 and 2 shall not apply to programmes under the European territorial cooperation goal.

Article 99

Geographical scope of operational programmes under the Investment for growth and jobs goal

Unless otherwise agreed between the Commission and the Member State, operational programmes for the ERDF and the ESF shall be drawn up at the appropriate geographical level and at least at NUTS level 2, in accordance with the institutional and legal framework of the Member State.

Operational programmes with support from the Cohesion Fund shall be drawn up at national level.

CHAPTER II

Major projects

Article 100

Content

As part of an operational programme or operational programmes, which have been subject to a Commission decision under Article 96(10) of this Regulation or under Article 8(12) of the ETC Regulation, the ERDF and the Cohesion Fund may support an operation comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and for which the total eligible cost exceeds EUR 50 000 000 and in the case of operations contributing to the thematic objective under point (7) of the first paragraph of Article 9 where the total eligible cost exceeds EUR 75 000 000 (the 'major project'). Financial instruments shall not be considered to be major projects.

Article 101

Information necessary for the approval of a major project

Before a major project is approved, the managing authority shall ensure that the following information is available:

- (a) details concerning the body to be responsible for implementation of the major project, and its capacity;
- (b) a description of the investment and its location;
- (c) the total cost and total eligible cost, taking account of the requirements set out in Article 61;
- (d) feasibility studies carried out, including the options analysis, and the results;

- (e) a cost-benefit analysis, including an economic and a financial analysis, and a risk assessment;
- (f) an analysis of the environmental impact, taking into account climate change adaptation and mitigation needs, and disaster resilience;
- (g) an explanation as to how the major project is consistent with the relevant priority axes of the operational programme or operational programmes concerned, and its expected contribution to achieving the specific objectives of those priority axes and the expected contribution to socio-economic development;
- (h) the financing plan showing the total planned financial resources and the planned support from the Funds, the EIB, and all other sources of financing, together with physical and financial indicators for monitoring progress, taking account of the identified risks;
- (i) the timetable for implementing the major project and, where the implementation period is expected to be longer than the programming period, the phases for which support from the Funds is requested during the programming period.
- (a) the document referred to in point (c) of Article 125(3) setting out:
- (i) the body to be responsible for implementation of the major project;
- (ii) a description of the investment, its location, timetable and expected contribution of the major project to the specific objectives of the relevant priority axis or axes;
- (iii) the total cost and total eligible cost, taking account of the requirements set out in Article 61;
- (iv) the financing plan, and the physical and financial indicators for monitoring progress, taking account of the identified risks;
- (b) the quality review of the independent experts, providing clear statements on the investment's feasibility and the economic viability of the major project.

The Commission shall adopt implementing acts establishing the methodology to be used based on recognised best practices, in carrying out the cost-benefit analysis referred to in point (e) of the first paragraph. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

At the initiative of a Member State, the information in points (a) to (i) of the first paragraph may be assessed by independent experts supported by technical assistance of the Commission or, in agreement with the Commission, by other independent experts ("quality review"). In other cases, the Member State shall submit to the Commission the information set out in points (a) to (i) of the first paragraph as soon as it is available.

The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, laying down the methodology to be used in carrying out the quality review of a major project.

The Commission shall adopt implementing acts establishing the format for submission of the information set out in points (a) to (i) of the first paragraph. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

Article 102

Decision on a major project

1. Where a major project has been appraised positively by a quality review by independent experts, on the basis of their assessment of the information referred to in the first paragraph of Article 101, the managing authority may proceed with the selection of the major project in accordance with Article 125(3). The managing authority shall notify the Commission of the selected major project. That notification shall consist of the following elements:

The financial contribution to the major project selected by the Member State shall be deemed to be approved by the Commission in the absence of a decision, by means of an implementing act, refusing the financial contribution within three months of the date of the notification referred to in the first subparagraph. The Commission shall refuse the financial contribution only on the grounds that it has established a significant weakness in the independent quality review.

The Commission shall adopt implementing acts establishing the format for the notification referred to in the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

2. In cases other than those referred to in paragraph 1 of this Article, the Commission shall appraise the major project on the basis of the information referred to in Article 101 in order to determine whether the requested financial contribution for the major project selected by the managing authority in accordance with Article 125(3) is justified. The Commission shall adopt a decision on the approval of the financial contribution to the selected major project, by means of an implementing act, no later than three months after the date of submission of the information referred to in Article 101.

3. The approval by the Commission under the second subparagraph of paragraph 1 and paragraph 2 shall be conditional on the first works contract being concluded, or, in the case of operations implemented under PPP structures, on the signing of the PPP agreement between the public body and the private sector body, within three years of the date of the approval. At the duly motivated request of the Member State, in particular in the case of delays resulting from administrative and legal proceedings related to the implementation of major projects, and made within the three year period, the Commission may adopt a decision, by means of an implementing act, on the extension of the period by not more than two years.

4. Where the Commission does not approve the financial contribution to the selected major project, it shall give in its decision the reasons for its refusal.

5. Major projects notified to the Commission under paragraph 1 or submitted for approval under paragraph 2 shall be contained in the list of major projects in an operational programme.

6. Expenditure relating to a major project may be included in a request for payment after the notification referred to in paragraph 1 or after the submission for approval referred to in paragraph 2. Where the Commission does not approve the major project selected by the managing authority, the declaration of expenditure following the adoption of the Commission decision shall be rectified accordingly.

Article 103

Decision on a major project subject to phased implementation

1. By way of derogation from the third paragraph of Article 101 and Article 102(1) and (2), the procedures set out in paragraphs 2, 3 and 4 of this Article shall apply to an operation which satisfies the following conditions:

- (a) the operation consists of the second or subsequent phase of a major project under the previous programming period for which the preceding phase or phases are approved by the Commission not later than 31 December 2015 pursuant to Regulation (EC) No 1083/2006; or in the case of Member States which acceded to the Union after 1 January 2013, no later than 31 December 2016;
- (b) the sum of the total eligible costs of all phases of the major project exceeds the respective levels set out in Article 100;
- (c) the major project application and assessment by the Commission under the previous programming period covered all the planned phases;
- (d) there are no substantial changes in the information referred to in the first paragraph of Article 101 of this Regulation for the major project compared to the information provided for the major project application submitted under Regulation (EC) No 1083/2006, in particular as regards the total eligible cost;
- (e) the phase of the major project to be implemented under the previous programming period is or will be ready to be used for its intended purpose as specified in the Commission decision by the deadline of the submission of the closure documents for the relevant operational programme or programmes.

2. The managing authority may proceed with the selection of the major project in accordance with Article 125(3) and submit the notification containing all the elements set out in point (a)

of the first subparagraph of Article 102(1) together with its confirmation that the condition under point (d) of paragraph 1 of this Article is fulfilled. No quality review of the information by independent experts shall be required.

3. The financial contribution to the major project selected by the managing authority shall be deemed to be approved by the Commission in the absence of a decision, by means of an implementing act, refusing the financial contribution to the major project within three months of the date of the notification referred to in paragraph 2. The Commission shall refuse the financial contribution only on the grounds that there have been substantial changes in the information referred to in point (d) of paragraph 1 or that the major project is not consistent with the relevant priority axis of the operational programme or programmes concerned.

4. Article 102(3) to (6) shall apply to decisions on a major project subject to phased implementation.

CHAPTER III

Joint action plan

Article 104

Scope

1. A joint action plan is an operation the scope of which is defined and which is managed in relation to the outputs and results to be achieved. It comprises a project or a group of projects, not consisting of the provision of infrastructure, carried out under the responsibility of the beneficiary, as part of an operational programme or programmes. The outputs and results of a joint action plan shall be agreed between a Member State and the Commission and shall contribute to specific objectives of the operational programmes and form the basis of support from the Funds. Results shall refer to direct effects of the joint action plan. The beneficiary of a joint action plan shall be a public law body. Joint action plans shall not be considered to be major projects.

2. The public expenditure allocated to a joint action plan shall be a minimum of EUR 10 000 000 or 20 % of the public support of the operational programme or programmes, whichever is lower. For the purpose of undertaking a pilot project, the minimum public expenditure allocated to one joint action plan for each operational programme may be reduced to EUR 5 000 000.

3. Paragraph 2 shall not apply to operations supported under the YEI.

Article 105

Preparation of joint action plans

1. The Member State, the managing authority or any designated public law body may submit a proposal for a joint action plan at the same time as or subsequent to the submission of the operational programmes concerned. That proposal shall contain all the information referred to in Article 106.

2. A joint action plan shall cover part of the period between 1 January 2014 and 31 December 2023. The outputs and results of a joint action plan shall give rise to reimbursement only if attained after the date of the decision of approval of the joint action plan referred to in Article 107 and before the end of the implementation period defined in that decision.

Article 106

Content of joint action plans

A joint action plan shall contain:

- (1) an analysis of the development needs and objectives justifying it, taking into account the objectives of the operational programmes and, where applicable, the relevant country-specific recommendations and the broad guidelines of the economic policies of the Member States and of the Union under Article 121(2) TFEU and the relevant Council recommendations which the Member States are to take into account in their employment policies under Article 148(4) TFEU;
- (2) the framework describing the relationship between the general and specific objectives of the joint action plan, the milestones and the targets for outputs and results, and the projects or types of projects envisaged;
- (3) the common and specific indicators used to monitor outputs and results, where relevant, by priority axis;
- (4) information on its geographic coverage and target groups;
- (5) its expected implementation period;
- (6) an analysis of its effects on the promotion of equality between men and women and the prevention of discrimination;
- (7) an analysis of its effects on the promotion of sustainable development, where appropriate;
- (8) its implementing provisions, including the following:
 - (a) the designation of the beneficiary responsible for the implementation of the joint action plan, providing guarantees of its competence in the domain concerned as well as its administrative and financial management capacity;

- (b) the arrangements for steering the joint action plan, in accordance with Article 108;
- (c) the arrangements for monitoring and evaluating the joint action plan including arrangements ensuring the quality, collection and storage of data on the achievement of milestones, outputs and results;
- (d) the arrangements ensuring the dissemination of information and communication in relation to the joint action plan and to the Funds;

(9) its financial arrangements, including the following:

- (a) the costs of achieving milestones, outputs and result targets with reference to point (2), based on the methods set out in Article 67(5) of this Regulation and in Article 14 of the ESF Regulation;
- (b) an indicative schedule of payments to the beneficiary linked to the milestones and targets;
- (c) the financing plan by operational programme and priority axis, including the total eligible amount and the amount of public expenditure.

The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts laying down the format of the model for the joint action plan. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

Article 107

Decision on the joint action plan

1. The Commission shall appraise the joint action plan on the basis of the information referred to in Article 106 in order to determine whether support from the Funds is justified.

Where the Commission, within two months following the submission of a joint action plan proposal, considers that it does not meet the appraisal requirements referred to in Article 104, it shall make observations to the Member State. The Member State shall provide to the Commission all necessary additional information requested and, where appropriate, revise the joint action plan accordingly.

2. Provided that any observations have been adequately taken into account, the Commission shall adopt a decision, by means of an implementing act, approving the joint action plan no later than four months after its submission by the Member State but not before the adoption of the operational programmes concerned.

3. The decision referred to in paragraph 2 shall indicate the beneficiary and the general and specific objectives of the joint action plan, the milestones and targets for outputs and results, the costs of achieving those milestones, outputs and result targets, and the financing plan by operational programme and priority axis, including the total eligible amount and the amount of public expenditure, the implementation period of the joint action plan and, where relevant, the geographical coverage and target groups of the joint action plan.

4. Where the Commission refuses, by means of an implementing act, to allow support from the Funds to be allocated to a joint action plan, it shall notify the Member State of its reasons within the period laid down in paragraph 2.

Article 108

Steering committee and amendment of the joint action plan

1. The Member State or the managing authority shall set up a steering committee for the joint action plan, distinct from the monitoring committee of the relevant operational programmes. The steering committee shall meet at least twice a year and shall report to the managing authority. The managing authority shall inform the relevant monitoring committee of the results of the work carried out by the steering committee and the progress of the implementation of the joint action plan in accordance with point (e) of Article 110(1) and point (a) of Article 125(2).

The composition of the steering committee shall be decided by the Member State in agreement with the relevant managing authority, respecting the principle of partnership.

The Commission may participate in the work of the steering committee in an advisory capacity.

2. The steering committee shall carry out the following activities:

- (a) review progress towards achieving the milestones, outputs and results of the joint action plan;
- (b) consider and approve any proposal to amend the joint action plan in order to take account of any issues affecting its performance.

3. Requests for amendment of joint action plans submitted by a Member State to the Commission shall be duly substantiated. The Commission shall assess whether the request for amendment is justified, taking account of the information provided by the Member State. The Commission may make observations and the Member State shall provide to the Commission all necessary additional information. The Commission shall adopt a decision, by means of an implementing act, on a request for amendment no later than three months after its submission by the Member State, provided that any observations made by the Commission have been

satisfactorily taken into account. The amendment shall enter into force from the date of the decision, unless otherwise set out in the decision.

Article 109

Financial management and control of the joint action plan

1. Payments to the beneficiary of a joint action plan shall be treated as lump sums or standard scales of unit costs. The ceiling for lump sums set out in point (c) of the first subparagraph of Article 67(1) shall not apply.

2. The financial management, control and audit of the joint action plan shall be aimed exclusively at verifying that the conditions for payments defined in the decision approving the joint action plan have been fulfilled.

3. The beneficiary of a joint action plan and the bodies acting under its responsibility may apply their accounting practices for the costs of implementing operations. Those accounting practices and the costs actually incurred by the beneficiary shall not be subject to audit by the audit authority or the Commission.

TITLE III

MONITORING, EVALUATION, INFORMATION AND COMMUNICATION

CHAPTER I

Monitoring and evaluation

Article 110

Functions of the monitoring committee

1. The monitoring committee shall examine in particular:
- (a) any issues that affect the performance of the operational programme;
 - (b) progress made in implementation of the evaluation plan and the follow-up given to findings of evaluations;
 - (c) implementation of the communication strategy;
 - (d) implementation of major projects;
 - (e) implementation of joint action plans;
 - (f) actions to promote equality between men and women, equal opportunities, and non-discrimination, including accessibility for persons with disabilities;
 - (g) actions to promote sustainable development;
 - (h) where applicable ex ante conditionalities are not fulfilled at the date of the submission of the Partnership Agreement and operational programme, progress on actions to fulfil the applicable ex ante conditionalities;
 - (i) financial instruments.

2. By way of derogation from Article 49(3), the monitoring committee shall examine and approve:

- (a) the methodology and criteria used for selection of operations;
- (b) the annual and final implementation reports;
- (c) the evaluation plan for the operational programme and any amendment of the evaluation plan, including where either is part of a common evaluation plan pursuant to Article 114(1);
- (d) the communication strategy for the operational programme and any amendment of the strategy;
- (e) any proposal by the managing authority for any amendment to the operational programme.

Article 111

Implementation reports for the Investment for growth and jobs goal

1. By 31 May 2016 and by the same date of each subsequent year until and including 2023 the Member State shall submit to the Commission an annual implementation report in accordance with Article 50(1). The report submitted in 2016 shall cover the financial years 2014 and 2015, as well as the period between the starting date for eligibility of expenditure and 31 December 2013.

2. For the reports submitted in 2017 and 2019, the deadline referred to in paragraph 1 shall be 30 June.

3. Annual implementation reports shall set out information on:

- (a) implementation of the operational programme in accordance with Article 50(2);
- (b) progress in preparation and implementation of major projects and joint action plans.

4. The annual implementation reports submitted in 2017 and 2019 shall set out and assess the information required under Article 50(4) and (5) respectively and the information set out in paragraph 3 of this Article together with the following information:

- (a) progress in the implementation of the evaluation plan and the follow-up given to the findings of evaluations;
- (b) the results of the information and publicity measures of the Funds carried out under the communication strategy;
- (c) the involvement of the partners in the implementation, monitoring and evaluation of the operational programme.

The annual implementation reports submitted in 2017 and 2019 may, depending on the content and objectives of operational programmes, set out information and assess the following:

- (a) progress in the implementation of the integrated approach to territorial development, including development of regions facing demographic challenges and permanent or natural handicaps, sustainable urban development, and community-led local development under the operational programme;
- (b) progress in the implementation of actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use the Funds;
- (c) progress in the implementation of any interregional and transnational actions;
- (d) where appropriate, the contribution to macro-regional and sea basin strategies;
- (e) the specific actions taken to promote equality between men and women and to prevent discrimination, in particular accessibility for persons with disabilities, and the arrangements implemented to ensure the integration of the gender perspective in the operational programme and operations;
- (f) actions taken to promote sustainable development in accordance with Article 8;
- (g) progress in the implementation of actions in the field of social innovation, where appropriate;
- (h) progress in the implementation of measures to address the specific needs of geographical areas most affected by poverty or of target groups at highest risk of poverty, discrimination or social exclusion, with special regard to marginalised communities and persons with disabilities, long term unemployed and young people not in employment, including, where appropriate, the financial resources used.

By way of derogation from the first and second subparagraphs, and in order to ensure consistency between the Partnership Agreement and the progress report, Member States with no more than one operational programme per Fund may include the information relating to ex ante conditionalities referred to in Article 50(3), the information required by Article 50(4) and the information referred to in points (a), (b), (c) and (h) of the second subparagraph of this paragraph in the progress report instead of the annual implementation reports submitted in 2017 and 2019 respectively and the final implementation report, without prejudice to point (b) of Article 110(2).

5. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts establishing the models for the annual and final implementation reports. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

Article 112

Transmission of financial data

1. By 31 January, 31 July and 31 October, the Member State shall transmit electronically to the Commission for monitoring purposes, for each operational programme and by priority axis:

- (a) the total and public eligible cost of the operations and the number of operations selected for support;
- (b) the total eligible expenditure declared by beneficiaries to the managing authority.

2. In addition, the transmission made by 31 January shall contain the above data broken down by category of intervention. That transmission shall be considered to fulfil the requirement for the submission of financial data referred to in Article 50(2).

3. A forecast of the amount for which Member States expect to submit payment applications for the current financial year and the subsequent financial year shall accompany the transmissions to be made by 31 January and 31 July.

4. The cut-off date for the data submitted under this Article shall be the end of the month preceding the month of submission.

5. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts establishing the model to be used when submitting the financial data to the Commission for monitoring purposes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

Article 113

Cohesion Report

The report of the Commission referred to in Article 175 TFEU shall include:

- (a) a record of progress made towards achieving economic, social and territorial cohesion, including the socio-economic situation and development of the regions, as well as the integration of the Union's priorities;
- (b) a record of the role of the Funds, EIB funding and the other instruments in, as well as the effect of other Union and national policies on, the progress made;

- (c) where appropriate an indication of future Union measures and policies necessary to strengthen economic, social and territorial cohesion, as well as to deliver the Union's priorities.

Article 114

Evaluation

1. An evaluation plan shall be drawn up by the managing authority or Member State for one or more operational programmes. The evaluation plan shall be submitted to the monitoring committee no later than one year after the adoption of the operational programme.

2. By 31 December 2022, managing authorities shall submit to the Commission, for each operational programme, a report summarising the findings of evaluations carried out during the programming period and the main outputs and results of the operational programme, providing comments on the reported information.

3. The Commission shall carry out ex post evaluations in close cooperation with the Member States and managing authorities.

4. Paragraphs 1 and 2 of this Article shall not apply to the dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4).

CHAPTER II

Information and communication

Article 115

Information and communication

1. Member States and managing authorities shall be responsible for:

- (a) drawing up communication strategies;
- (b) ensuring the establishment of a single website or a single website portal providing information on, and access to, all operational programmes in that Member State, including information about the timing of implementation of programming and any related public consultation processes;
- (c) informing potential beneficiaries about funding opportunities under operational programmes;
- (d) publicising to Union citizens the role and achievements of cohesion policy and of the Funds through information and communication actions on the results and impact of Partnership Agreements, operational programmes and operations.

2. Member States or managing authorities shall, in order to ensure transparency concerning support from the Funds, maintain a list of operations by operational programme and by Fund in a spreadsheet data format, which allows data to be sorted, searched, extracted, compared and easily published on the internet, for instance in CSV or XML format. The list of operations shall be accessible through the single website or the single website portal providing a list and summary of all operational programmes in that Member State.

In order to encourage the use of the list of operations subsequently by the private sector, civil society or national public administration, the website may clearly indicate the applicable licensing rules under which data are published.

The list of operations shall be updated at least every six months.

The minimum information to be set out in the list of operations is laid down in Annex XII.

3. Detailed rules concerning the information and communication measures for the public and information measures for applicants and for beneficiaries are laid down in Annex XII.

4. The Commission shall adopt implementing acts concerning the technical characteristics of information and communication measures for the operation and instructions for creating the emblem and a definition of the standard colours. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

Article 116

Communication strategy

1. The Member State or the managing authorities shall draw up a communication strategy for each operational programme. A common communication strategy may be drawn up for several operational programmes. The communication strategy shall take into account the size of the operational programme or programmes concerned, in accordance with the principle of proportionality.

The communication strategy shall include the elements set out in Annex XII.

2. The communication strategy shall be submitted to the monitoring committee for approval in accordance with point (d) of Article 110(2) no later than six months after the adoption of the operational programme or programmes concerned.

Where a common communication strategy is drawn up for several operational programmes and concerns several monitoring committees, the Member State may designate one monitoring committee to be responsible, in consultation with the other relevant monitoring committees, for the approval of the

common communication strategy and for the approval of any subsequent amendments of that strategy.

Where necessary, the Member State or managing authorities may amend the communication strategy during the programming period. The amended communication strategy shall be submitted by the managing authority to the monitoring committee for approval in accordance with point (d) of Article 110(2).

3. By way of derogation from the third subparagraph of paragraph 2, the managing authority shall inform the monitoring committee or committees responsible at least once a year on the progress in the implementation of the communication strategy as referred to in point (c) of Article 110(1) and on its analysis of the results as well as on the planned information and communication activities to be carried out in the following year. The monitoring committee shall, if it considers it to be appropriate, give an opinion on the planned activities for the following year.

Article 117

Information and communication officers and their networks

1. Each Member State shall designate an information and communication officer to coordinate information and communication actions in relation to one or more Funds, including relevant programmes under the European territorial cooperation goal, and shall inform the Commission accordingly.

2. The information and communication officer shall be responsible for the coordination of the national network of Fund communicators, where such a network exists, the creation and maintenance of the website or website portal referred to in Annex XII and the provision of an overview of communication measures undertaken at Member State level.

3. Each managing authority shall designate one person to be responsible for information and communication at operational programme level and shall inform the Commission of those designated. Where appropriate, one person may be designated for several operational programmes.

4. Union networks comprising the members designated by the Member States shall be set up by the Commission to ensure exchange of information on the results of the implementation of the communication strategies, the exchange of experience in implementing the information and communication measures, and the exchange of good practices.

TITLE IV

TECHNICAL ASSISTANCE

Article 118

Technical assistance at the initiative of the Commission

The Funds, taking into account the deductions made in accordance with Article 91(3), may support technical assistance up to a ceiling of 0,35 % of their respective annual allocation.

Article 119

Technical assistance of the Member States

1. The amount of the Funds allocated to technical assistance shall be limited to 4 % of the total amount of the Funds allocated to operational programmes in a Member State under each category of region, where applicable, of the Investment for growth and jobs goal.

The specific allocation for YEI may be taken into account by a Member State in the calculation of the limit to the total amount of the Funds allocated to the technical assistance of the Member State.

2. Each Fund may support technical assistance operations eligible under any of the other Funds. Without prejudice to paragraph 1, the allocation for technical assistance from a Fund shall not exceed 10 % of the total allocation of that Fund to operational programmes in a Member State under each category of region, where applicable, of the Investment for growth and jobs goal.

3. By way of derogation from Article 70(1) and (2), technical assistance operations may be implemented outside the programme area, but within the Union, provided that the operations are for the benefit of the operational programme, or, in the case of a technical assistance operational programme, for the other programmes concerned.

4. In the case of the Structural Funds, where the allocations referred to in paragraph 1 are used to support technical assistance operations relating to more than one category of region, the expenditure relating to the operations may be implemented under a priority axis combining different categories of region and attributed on a pro rata basis taking into account the allocation under each category of region as a share of the total allocation to the Member State.

5. By way of derogation from paragraph 1, where the total amount of the Funds allocated to a Member State under the Investment for growth and jobs goal does not exceed EUR 1 000 000 000 the amount allocated to technical assistance may increase up to 6 % of that total amount or EUR 50 000 000, whichever is the lower.

6. Technical assistance shall take the form of a mono-fund priority axis within an operational programme or of a specific operational programme, or both.

TITLE V

FINANCIAL SUPPORT FROM THE FUNDS

Article 120

Determination of co-financing rates

1. The Commission decision adopting an operational programme shall fix the co-financing rate and the maximum

amount of support from Funds for each priority axis. Where a priority axis concerns more than one category of regions or more than one Fund, the Commission decision shall, where necessary, fix the co-financing rate by category of region and Fund.

2. For each priority axis, the Commission decision shall set out whether the co-financing rate for the priority axis is to be applied to:

(a) total eligible expenditure, including public and private expenditure; or

(b) eligible public expenditure.

3. The co-financing rate at the level of each priority axis and, where relevant, by category of region and Fund, of operational programmes under the Investment for growth and jobs goal shall be no higher than:

(a) 85 % for the Cohesion Fund;

(b) 85 % for the less developed regions of Member States whose average GDP per capita for the period 2007 - 2009 was below 85 % of the EU-27 average during the same period and for the outermost regions including the additional allocation for outermost regions in accordance with point (e) of Article 92(1) and Article 4(2) of the ETC Regulation;

(c) 80 % for the less developed regions of Member States other than those referred to in point (b), and for all regions whose GDP per capita used as an eligibility criterion for the 2007-2013 programming period was less than 75 % of the average of the EU-25 but whose GDP per capita is above 75 % of the GDP average of the EU-27, as well as for regions defined in Article 8(1) of Regulation (EU) 1083/2006 receiving transitional support for the 2007-2013 programming period;

(d) 60 % for the transition regions other than those referred to in point (c);

(e) 50 % for the more developed regions other than those referred to in point (c).

For the period from 1 January 2014 to 30 June 2017 the co-financing rate at the level of each priority axis for all operational programmes in Cyprus shall be not higher than 85 %.

The Commission shall carry out a review to assess the justification for maintaining the co-financing rate, referred to in the second subparagraph, after 30 June 2017 and shall if necessary make a legislative proposal before 30 June 2016.

The co-financing rate at the level of each priority axis of operational programmes under the European territorial cooperation goal shall be no higher than 85 %.

The maximum co-financing rate under points (b), (c), (d) and (e) of the first subparagraph shall be increased for each priority axis implementing the YEI and where a priority axis is dedicated to social innovation or to transnational cooperation, or a combination of both. That increase shall be determined in accordance with the Fund-specific rules.

4. The co-financing rate of the additional allocation in accordance with point (e) of Article 92(1) shall be no higher than 50 % for NUTS level 2 regions fulfilling the criteria laid down in Protocol No 6 to the 1994 Act of Accession.

5. The maximum co-financing rate under paragraph 3 at the level of a priority axis shall be increased by ten percentage points, where the whole of a priority axis is delivered through financial instruments, or through community-led local development.

6. The contribution from the Funds for each priority axis shall not be less than 20 % of the eligible public expenditure.

7. A separate priority axis with a co-financing rate of up to 100 % may be established within an operational programme to support operations implemented through financial instruments set up at Union level and managed directly or indirectly by the Commission. Where a separate priority axis is established for this purpose, the support under this axis may not be implemented by any other means.

Article 121

Modulation of the co-financing rates

The co-financing rate from the Funds to a priority axis may be modulated to take account of:

- (1) the importance of the priority axis for the delivery of the Union strategy for smart, sustainable and inclusive growth, having regard to the specific gaps to be addressed;
- (2) the protection and improvement of the environment, principally through the application of the precautionary principle, the principle of preventive action and the polluter pays principle;
- (3) the rate of mobilisation of private financing;
- (4) the coverage of areas with severe and permanent natural or demographic handicaps defined as follows:
 - (a) island Member States eligible under the Cohesion Fund, and other islands except those on which the capital of a Member State is situated or which have a fixed link to the mainland;
 - (b) mountainous areas as defined by the national legislation of the Member State;
 - (c) sparsely (i.e. less than 50 inhabitants per square kilometre) and very sparsely (less than 8 inhabitants per square kilometre) populated areas;

- (d) the inclusion of the outermost regions as referred to in Article 349 TFEU.

PART FOUR

GENERAL PROVISIONS APPLICABLE TO THE FUNDS AND THE EMFF

TITLE I

MANAGEMENT AND CONTROL

CHAPTER I

Management and control systems

Article 122

Responsibilities of Member States

1. Member States shall ensure that management and control systems for operational programmes are set up in accordance with Articles 72, 73 and 74.
2. Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid, together with any interest on late payments. They shall notify the Commission of irregularities that exceed EUR 10 000 in contribution from the Funds and shall keep it informed of significant progress in related administrative and legal proceedings.

The Member States shall not notify the Commission of irregularities in relation to the following:

- (a) cases where the irregularity consists solely of the failure to execute, in whole or in part, an operation included in the co-financed operational programme owing to the bankruptcy of the beneficiary;
- (b) cases brought to the attention of the managing authority or certifying authority by the beneficiary voluntarily and before detection by either authority, whether before or after the payment of the public contribution;
- (c) cases which are detected and corrected by the managing authority or certifying authority before inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.

In all other cases, in particular those preceding a bankruptcy or in cases of suspected fraud, the detected irregularities and the associated preventive and corrective measures shall be reported to the Commission.

When amounts unduly paid to a beneficiary cannot be recovered and this is as a result of fault or negligence on the part of a Member State, the Member State shall be responsible for reimbursing the amounts concerned to the budget of the Union. Member States may decide not to recover an amount unduly paid if the amount to be recovered from the beneficiary, not including interest, does not exceed EUR 250 in contribution from the Funds.

The Commission shall be empowered to adopt delegated acts in accordance with Article 149 laying down additional detailed rules on the criteria for determining the cases of irregularity to be reported, the data to be provided and on the conditions and procedures to be applied to determine whether amounts which are irrecoverable shall be reimbursed by Member States.

The Commission shall adopt implementing acts setting out the frequency of the reporting of irregularities and the reporting format to be used. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

3. Member States shall ensure that no later than 31 December 2015, all exchanges of information between beneficiaries and a managing authority, a certifying authority, an audit authority and intermediate bodies can be carried out by means of electronic data exchange systems.

The systems referred to in the first subparagraph shall facilitate interoperability with national and Union frameworks and allow for the beneficiaries to submit all information referred to in the first subparagraph only once.

The Commission shall adopt implementing acts laying down detailed rules concerning the exchanges of information under this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

4. Paragraph 3 shall not apply to the EMFF.

CHAPTER II

Management and control authorities

Article 123

Designation of authorities

1. Each Member State shall designate, for each operational programme, a national, regional or local public authority or body or a private body as managing authority. The same managing authority may be designated for more than one operational programme.

2. The Member State shall designate, for each operational programme, a national, regional or local public authority or body as a certifying authority, without prejudice to paragraph 3. The same certifying authority may be designated for more than one operational programme.

3. The Member State may designate for an operational programme a managing authority, which is a public authority or body, to carry out, in addition, the functions of the certifying authority.

4. The Member State shall designate, for each operational programme, a national, regional or local public authority or body, functionally independent from the managing authority and the certifying authority, as audit authority. The same audit authority may be designated for more than one operational programme.

5. In the case of the Funds relating to the Investment for growth and jobs goal and in the case of the EMFF, provided that the principle of separation of functions is respected, the managing authority, the certifying authority, where applicable, and the audit authority may be part of the same public authority or body.

Where the total amount of support from the Funds to an operational programme exceeds EUR 250 000 000 or from the EMFF exceeds EUR 100 000 000, the audit authority may be part of the same public authority or body as the managing authority either if, pursuant to the applicable provisions for the previous programming period, the Commission has informed the Member State prior to the date of adoption of the operational programme concerned of its conclusion that it can rely principally on its audit opinion, or if the Commission is satisfied on the basis of the experience of the previous programming period that the institutional organisation and accountability of the audit authority provide adequate guarantees of its functional independence and reliability.

6. The Member State may designate one or more intermediate bodies to carry out certain tasks of the managing or the certifying authority under the responsibility of that authority. The relevant arrangements between the managing authority or certifying authority and the intermediate bodies shall be formally recorded in writing.

7. The Member State or the managing authority may entrust the management of part of an operational programme to an intermediate body by way of an agreement in writing between the intermediate body and the Member State or managing authority (a 'global grant'). The intermediate body shall provide guarantees of its solvency and competence in the domain concerned, as well as of its administrative and financial management capacity.

8. The Member State may, at its own initiative, designate a coordinating body whose responsibility shall be to liaise with and provide information to the Commission, to coordinate activities of the other relevant designated bodies and to promote the harmonised application of applicable law.

9. The Member State shall lay down in writing rules governing its relationship with the managing authorities, certifying authorities and audit authorities, the relations between such authorities, and the relationship of such authorities with the Commission.

Article 124

Procedure for the designation of the managing authority and the certifying authority

1. The Member State shall notify the Commission of the date and form of the designations, which shall be carried out at an appropriate level, of the managing authority and, where appropriate, of the certifying authority prior to the submission of the first application for interim payment to the Commission.

2. The designations referred to in paragraph 1 shall be based on a report and an opinion of an independent audit body that assesses the fulfilment by the authorities of the criteria relating to the internal control environment, risk management, management and control activities, and monitoring set out in Annex XIII. The independent audit body shall be the audit authority, or another public or private law body with the necessary audit capacity, which is independent of the managing authority and, where applicable, of the certifying authority, and which shall carry out its work taking account of internationally accepted audit standards. Where the independent audit body concludes that the part of the management and control system, concerning the managing authority or the certifying authority, is essentially the same as for the previous programming period, and that there is evidence, on the basis of audit work done in accordance with the relevant provisions of Regulation (EC) No 1083/2006 and Council Regulation (EC) No 1198/2006⁽¹⁾, of their effective functioning during that period, it may conclude that the relevant criteria are fulfilled without carrying out additional audit work.

3. Where the total amount of support from the Funds to an operational programme exceeds EUR 250 000 000 or from the EMFF exceeds EUR 100 000 000, the Commission may request, within one month of notification of the designations referred to in paragraph 1, the report and the opinion of the independent audit body referred to in paragraph 2 and the description of the functions and procedures in place for the managing authority or, where appropriate, the certifying authority. The Commission shall decide whether to request those documents on the basis of its risk assessment, taking into account information on significant changes in the functions and procedures of the managing authority or, where appropriate, the certifying authority compared to those in place for the previous programming period, and relevant evidence of their effective functioning.

The Commission may make observations within two months of receipt of the documents referred to in the first subparagraph. Without prejudice to Article 83, the examination of those documents shall not interrupt the treatment of applications for interim payments.

4. Where the total amount of support from the Funds to an operational programme exceeds EUR 250 000 000 or from the EMFF exceeds EUR 100 000 000 and there are significant changes in the functions and procedures of the managing authority or, where appropriate, of the certifying authority compared to those in place for the previous programming period, the Member State may, at its own initiative, submit to the Commission, within two months of the notification of the designations referred to in paragraph 1, the documents referred to in paragraph 3. The Commission shall make observations on those documents within three months of their receipt.

5. Where existing audit and control results show that the designated authority no longer fulfils the criteria referred to in

paragraph 2, the Member State shall, at an appropriate level, fix, according to the severity of the problem, a period of probation, during which the necessary remedial action shall be taken.

Where the designated authority fails to implement the required remedial action within the period of probation determined by the Member State, the Member State, at an appropriate level, shall end its designation.

The Member State shall notify the Commission without delay when a designated authority is put under probation, providing information on the respective period of probation, when, following implementation of remedial actions, the probation is ended, as well as when the designation of an authority is ended. The notification that a designated body is put on probation by the Member State, without prejudice to the application of Article 83, shall not interrupt the treatment of applications for interim payments.

6. Where the designation of a managing authority or a certifying authority is ended, Member States shall designate, in accordance with the procedure provided for in paragraph 2, a new body, to take over the functions of the managing authority or of the certifying authority, and shall notify the Commission thereof.

7. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts concerning the model for the report and opinion of the independent audit body and the description of the functions and procedures in place for the managing authority and, where appropriate, the certifying authority. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

Article 125

Functions of the managing authority

1. The managing authority shall be responsible for managing the operational programme in accordance with the principle of sound financial management.

2. As regards the management of the operational programme, the managing authority shall:

(a) support the work of the monitoring committee referred to in Article 47 and provide it with the information it requires to carry out its tasks, in particular data relating to the progress of the operational programme in achieving its objectives, financial data and data relating to indicators and milestones;

(b) draw up and, after approval by the monitoring committee, submit to the Commission annual and final implementation reports referred to in Article 50;

⁽¹⁾ Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund (OJ L 223, 15.8.2006, p. 1).

- (c) make available to intermediate bodies and beneficiaries information that is relevant to the execution of their tasks and the implementation of operations respectively;
- (d) establish a system to record and store in computerised form data on each operation necessary for monitoring, evaluation, financial management, verification and audit, including data on individual participants in operations, where applicable;
- (e) ensure that the data referred to in point (d) is collected, entered and stored in the system referred to in point (d), and that data on indicators is broken down by gender where required by Annexes I and II of the ESF Regulation.
3. As regards the selection of operations, the managing authority shall:
- (a) draw up and, once approved, apply appropriate selection procedures and criteria that:
- (i) ensure the contribution of operations to the achievement of the specific objectives and results of the relevant priority;
- (ii) are non-discriminatory and transparent;
- (iii) take into account the general principles set out in Articles 7 and 8;
- (b) ensure that a selected operation falls within the scope of the Fund or Funds concerned and can be attributed to a category of intervention or, in the case of the EMFF, a measure identified in the priority or priorities of the operational programme;
- (c) ensure that the beneficiary is provided with a document setting out the conditions for support for each operation including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, and the time-limit for execution;
- (d) satisfy itself that the beneficiary has the administrative, financial and operational capacity to fulfil the conditions referred to in point (c) before approval of the operation;
- (e) satisfy itself that, where the operation has started before the submission of an application for funding to the managing authority, applicable law relevant for the operation has been complied with;
- (f) ensure that operations selected for support from the Funds or the EMFF do not include activities which were part of an operation which has been or should have been subject to a procedure of recovery in accordance with Article 71 following the relocation of a productive activity outside the programme area;
- (g) determine the categories of intervention or, in the case of the EMFF, the measures to which the expenditure of an operation shall be attributed.
4. As regards the financial management and control of the operational programme, the managing authority shall:
- (a) verify that the co-financed products and services have been delivered and that expenditure declared by the beneficiaries has been paid and that it complies with applicable law, the operational programme and the conditions for support of the operation;
- (b) ensure that beneficiaries involved in the implementation of operations reimbursed on the basis of eligible costs actually incurred maintain either a separate accounting system or an adequate accounting code for all transactions relating to an operation;
- (c) put in place effective and proportionate anti-fraud measures taking into account the risks identified;
- (d) set up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements of point (g) of Article 72;
- (e) draw up the management declaration and annual summary referred to in points (a) and (b) of Article 59(5) of the Financial Regulation.
- By way of derogation from point (a) of the first subparagraph, the ETC Regulation may establish specific rules on verification applicable to cooperation programmes.
5. Verifications pursuant to point (a) of the first subparagraph of paragraph 4 shall include the following procedures:
- (a) administrative verifications in respect of each application for reimbursement by beneficiaries;
- (b) on-the-spot verifications of operations.
- The frequency and coverage of the on-the-spot verifications shall be proportionate to the amount of public support to an operation and to the level of risk identified by such verifications and audits by the audit authority for the management and control system as a whole.
6. On-the-spot verifications of individual operations pursuant to point (b) of the first subparagraph of paragraph 5 may be carried out on a sample basis.
7. Where the managing authority is also a beneficiary under the operational programme, arrangements for the verifications referred to in point (a) of the first subparagraph of paragraph 4 shall ensure adequate separation of functions.

8. The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, laying down rules specifying the information in relation to the data to be recorded and stored in computerised form within the monitoring system established under point (d) of paragraph 2 of this Article.

The Commission shall adopt implementing acts laying down the technical specifications of the system established under point (d) of paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

9. The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, laying down the detailed minimum requirements for the audit trail referred to in point (d) of the first subparagraph of paragraph 4 of this Article in respect of the accounting records to be maintained and the supporting documents to be held at the level of the certifying authority, managing authority, intermediate bodies and beneficiaries.

10. The Commission shall, in order to ensure uniform conditions on the implementation of this Article, adopt implementing acts concerning the model for the management declaration referred to in point (e) of the first subparagraph of paragraph 4 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

Article 126

Functions of the certifying authority

The certifying authority of an operational programme shall be responsible in particular for:

- (a) drawing up and submitting payment applications to the Commission, and certifying that they result from reliable accounting systems, are based on verifiable supporting documents and have been subject to verifications by the managing authority;
- (b) drawing up the accounts referred to in point (a) of Article 59(5) of the Financial Regulation;
- (c) certifying the completeness, accuracy and veracity of the accounts and that the expenditure entered in the accounts complies with applicable law and has been incurred in respect of operations selected for funding in accordance with the criteria applicable to the operational programme and complying with applicable law;
- (d) ensuring that there is a system which records and stores, in computerised form, accounting records for each operation, and which supports all the data required for drawing up payment applications and accounts, including records of amounts recoverable, amounts recovered and amounts withdrawn following cancellation of all or part of the contribution for an operation or operational programme;
- (e) ensuring, for the purposes of drawing up and submitting payment applications, that it has received adequate information from the managing authority on the procedures and verifications carried out in relation to expenditure;
- (f) taking account when drawing up and submitting payment applications of the results of all audits carried out by, or under the responsibility of, the audit authority;
- (g) maintaining, in a computerised form, accounting records of expenditure declared to the Commission and of the corresponding public contribution paid to beneficiaries;
- (h) keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered shall be repaid to the budget of the Union prior to the closure of the operational programme by deducting them from the subsequent statement of expenditure.

Article 127

Functions of the audit authority

1. The audit authority shall ensure that audits are carried out on the proper functioning of the management and control system of the operational programme and on an appropriate sample of operations on the basis of the declared expenditure. The declared expenditure shall be audited based on a representative sample and, as a general rule, on statistical sampling methods.

A non- statistical sampling method may be used on the professional judgement of the audit authority, in duly justified cases, in accordance with internationally accepted audit standards and in any case where the number of operations for an accounting year is insufficient to allow the use of a statistical method.

In such cases, the size of the sample shall be sufficient to enable the audit authority to draw up a valid audit opinion in accordance with the second subparagraph of Article 59(5) of the Financial Regulation.

The non-statistical sample method shall cover a minimum of 5 % of operations for which expenditure has been declared to the Commission during an accounting year and 10 % of the expenditure which has been declared to the Commission during an accounting year.

2. Where audits are carried out by a body other than the audit authority, the audit authority shall ensure that any such body has the necessary functional independence.

3. The audit authority shall ensure that audit work takes account of internationally accepted audit standards.

4. The audit authority shall, within eight months of adoption of an operational programme, prepare an audit strategy for performance of audits. The audit strategy shall set out the audit methodology, the sampling method for audits on operations and the planning of audits in relation to the current accounting year and the two subsequent accounting years. The audit strategy shall be updated annually from 2016 until and including 2024. Where a common management and control system applies to more than one operational programme, a single audit strategy may be prepared for the operational programmes concerned. The audit authority shall submit the audit strategy to the Commission upon request.

5. The audit authority shall draw up:

- (a) an audit opinion in accordance with the second subparagraph of Article 59(5) of the Financial Regulation;
- (b) a control report setting out the main findings of the audits carried out in accordance with paragraph 1, including findings with regard to deficiencies found in the management and control systems, and the proposed and implemented corrective actions.

Where a common management and control system applies to more than one operational programme, the information required under point (b) of the first subparagraph may be grouped in a single report.

6. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts laying down models for the audit strategy, the audit opinion and the control report. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

7. The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, to set out the scope and content of audits of operations and audits of the accounts and the methodology for the selection of the sample of operations referred to in paragraph 1 of this Article.

8. The Commission shall be empowered to adopt delegated acts, in accordance with Article 149, laying down detailed rules on the use of data collected during audits carried out by Commission officials or authorised Commission representatives.

CHAPTER III

Cooperation with audit authorities

Article 128

Cooperation with audit authorities

1. The Commission shall cooperate with audit authorities to coordinate their audit plans and methods and shall immediately exchange with those authorities the results of audits carried out on management and control systems.

2. To facilitate this cooperation in cases where a Member State designates more than one audit authority, the Member State may designate a coordination body.

3. The Commission, the audit authorities and any coordination body shall meet on a regular basis and, as a general rule, at least once a year, unless otherwise agreed, to examine the annual control report, the audit opinion and the audit strategy, and to exchange views on issues relating to improvement of the management and control systems.

TITLE II

FINANCIAL MANAGEMENT, PREPARATION, EXAMINATION, ACCEPTANCE AND CLOSURE OF ACCOUNTS AND FINANCIAL CORRECTIONS

CHAPTER I

Financial management

Article 129

Common rules for payments

The Member State shall ensure that by the closure of the operational programme, the amount of public expenditure paid to beneficiaries is at least equal to the contribution from the Funds paid by the Commission to the Member State.

Article 130

Common rules for calculating interim payments and payment of the final balance

1. The Commission shall reimburse as interim payments 90 % of the amount resulting from applying the co-financing rate for each priority, laid down in the decision adopting the operational programme, to the eligible expenditure for the priority included in the payment application. The Commission shall determine the remaining amounts to be reimbursed as interim payments or to be recovered in accordance with Article 139.

2. The contribution from the Funds or the EMFF to a priority through the interim payments and payment of the final balance shall not be higher than:

- (a) the eligible public expenditure indicated in the payment application for the priority; or
- (b) the contribution from the Funds or the EMFF for the priority laid down in the decision of the Commission approving the operational programme.

Article 131

Payment applications

1. Payment applications shall include, for each priority:

- (a) the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations, as entered in the accounting system of the certifying authority;

(b) the total amount of public expenditure incurred in implementing operations, as entered in the accounting system of the certifying authority.

2. Eligible expenditure included in a payment application shall be supported by receipted invoices or accounting documents of equivalent probative value, except for forms of support under points (b), (c) and (d) of the first subparagraph of Article 67(1), under Article 68, Article 69(1) and Article 109 of this Regulation and under Article 14 of the ESF Regulation. For those forms of support, the amounts included in a payment application shall be the costs calculated on the applicable basis.

3. In the case of aid schemes under Article 107 TFEU, the public contribution corresponding to the expenditure included in a payment application shall have been paid to the beneficiaries by the body granting the aid.

4. By way of derogation from paragraph 1, in the case of State aid, the payment application may include advances paid to the beneficiary by the body granting the aid under the following cumulative conditions:

(a) those advances are subject to a guarantee provided by a bank or other financial institution established in the Member State or be covered by a facility provided as a guarantee by a public entity or by the Member State;

(b) those advances do not exceed 40 % of the total amount of the aid to be granted to a beneficiary for a given operation;

(c) those advances are covered by expenditure paid by beneficiaries in implementing the operation and supported by receipted invoices or accounting documents of equivalent probative value at the latest within three years following the year of the payment of the advance or on 31 December 2023, whichever is earlier, failing which the next payment application shall be corrected accordingly.

5. Each payment application which includes advances of the type referred to in paragraph 4 shall separately disclose the total amount paid from the operational programme as advances, the amount which has been covered by expenditure paid by beneficiaries within three years of the payment of the advance in accordance with point (c) of paragraph 4, and the amount which has not been covered by expenditure paid by beneficiaries and for which the three year period has not yet elapsed.

6. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts laying down the model for payment applications. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

Article 132

Payment to beneficiaries

1. Subject to the availability of funding from initial and annual pre-financing and interim payments, the managing authority shall ensure that a beneficiary receives the total amount of eligible public expenditure due in full and no later than 90 days from the date of submission of the payment claim by the beneficiary.

No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce amounts due to beneficiaries.

2. The payment deadline referred to in paragraph 1 may be interrupted by the managing authority in either of the following duly justified cases:

(a) the amount of the payment claim is not due or the appropriate supporting documents, including the documents necessary for management verifications under point (a) of the first subparagraph of Article 125(4), have not been provided;

(b) an investigation has been initiated in relation to a possible irregularity affecting the expenditure concerned.

The beneficiary concerned shall be informed in writing of the interruption and the reasons for it.

Article 133

Use of the euro

1. Member States which have not adopted the euro as their currency on the date of an application for payment shall convert the amounts of expenditure incurred in national currency into euro. Those amounts shall be converted into euro using the monthly accounting exchange rate of the Commission in the month during which the expenditure was registered in the accounts of the certifying authority of the operational programme concerned. The exchange rate shall be published electronically by the Commission each month.

2. By way of derogation from paragraph 1, the ETC Regulation may establish specific rules on the timing for conversion into euro.

3. When the euro becomes the currency of a Member State, the conversion procedure set out in paragraph 1 shall continue to apply to all expenditure recorded in the accounts by the certifying authority before the date of entry into force of the fixed conversion rate between the national currency and the euro.

*Article 134***Payment of pre-financing**

1. The initial pre-financing amount shall be paid in instalments as follows:

- (a) in 2014: 1 % of the amount of support from the Funds and the EMFF for the entire programming period to the operational programme or 1,5 % of the amount of support from the Funds and the EMFF for the entire programming period to the operational programme when a Member State has been receiving financial assistance since 2010, in accordance with Articles 122 and 143 TFEU, or from the European Financial Stability Facility (EFSF), or is receiving financial assistance on 31 December 2013 in accordance with Articles 136 and 143 TFEU;
- (b) in 2015: 1 % of the amount of support from the Funds and the EMFF for the entire programming period to the operational programme or 1,5 % of the amount of support from the Funds and the EMFF for the entire programming period to the operational programme when a Member State has been receiving financial assistance since 2010, in accordance with Articles 122 and 143 TFEU, or from the EFSF, or is receiving financial assistance on 31 December 2014 in accordance with Articles 136 and 143 TFEU;
- (c) in 2016: 1 % of the amount of support from the Funds and the EMFF for the entire programming period to the operational programme.

If an operational programme is adopted in 2015 or later, the earlier instalments shall be paid in the year of adoption.

2. An annual pre-financing amount shall be paid before 1 July in the years 2016 to 2023. It shall be a percentage of the amount of the support from the Funds and the EMFF for the whole programming period to the operational programme as follows:

- 2016: 2 %
- 2017: 2,625 %
- 2018: 2,75 %
- 2019: 2,875 %
- 2020 to 2023: 3 %.

3. When calculating the amount of initial pre-financing referred to in paragraph 1, the amount of support for the entire programming period shall exclude the amounts from the performance reserve which were initially allocated to the operational programme.

When calculating the amount of annual pre-financing referred to in paragraph 2 up to and including 2020, the amount of support for the entire programming period shall exclude the amounts from the performance reserve which were initially allocated to the operational programme.

*Article 135***Deadlines for presentation of interim payment applications and for their payment**

1. The certifying authority shall submit on a regular basis an application for interim payment in accordance with Article 131(1) covering amounts entered in its accounting system in the accounting year. However, the certifying authority, where it considers it to be necessary, may include such amounts in payment applications submitted in subsequent accounting years.

2. The certifying authority shall submit the final application for an interim payment by 31 July following the end of the previous accounting year and, in any event, before the first application for interim payment for the next accounting year.

3. The first application for interim payment shall not be made before the notification to the Commission of the designation of the managing authorities and certifying authorities in accordance with Article 124.

4. Interim payments shall not be made for an operational programme unless the annual implementation report has been sent to the Commission in accordance with the Fund-specific rules.

5. Subject to available funding, the Commission shall make the interim payment no later than 60 days after the date on which a payment application is registered with the Commission.

*Article 136***Decommitment**

1. The Commission shall decommit any part of the amount in an operational programme that has not been used for payment of the initial and annual pre-financing and interim payments by 31 December of the third financial year following the year of budget commitment under the operational programme or for which a payment application drawn up in accordance with Article 131 has not been submitted in accordance with Article 135.

2. That part of commitments still open on 31 December 2023 shall be decommitted if any of the documents required under Article 141(1) has not been submitted to the Commission by the deadline set out in Article 141(1).

CHAPTER II

Preparation, examination and acceptance of accounts and closure of operational programmes and suspension of payments

Section I

Preparation, examination and acceptance of accounts*Article 137***Preparation of the accounts**

1. The accounts referred to in point (a) of Article 59(5) of the Financial Regulation shall be submitted to the Commission for each operational programme. The accounts shall cover the accounting year and shall include at the level of each priority and, where applicable, fund and category of regions:

- (a) the total amount of eligible expenditure entered into the accounting systems of the certifying authority which has been included in payment applications submitted to the Commission in accordance with Article 131 and Article 135(2) by 31 July following the end of the accounting year, the total amount of the corresponding public expenditure incurred in implementing operations, and the total amount of corresponding payments made to beneficiaries under Article 132(1);
- (b) the amounts withdrawn and recovered during the accounting year, the amounts to be recovered as at the end of the accounting year, the recoveries effected pursuant to Article 71, and the irrecoverable amounts;
- (c) the amounts of programme contributions paid to financial instruments under Article 41(1) and advances of State aid under Article 131(4);
- (d) for each priority, a reconciliation between the expenditure stated pursuant to point (a) and the expenditure declared in respect of the same accounting year in payment applications, accompanied by an explanation of any differences.

2. Where expenditure previously included in an application for interim payment for the accounting year is excluded by a Member State from its accounts due to an ongoing assessment of that expenditure's legality and regularity, any or all of that expenditure subsequently found to be legal and regular may be included in an application for interim payment relating to subsequent accounting years.

3. The Commission shall, in order to lay down uniform conditions for the implementation of this Article, adopt implementing acts setting out the model for the accounts referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).

*Article 138***Submission of information**

For each year from 2016 until and including 2025, Member States shall submit, by the deadline set out in Article 59(5) of the Financial Regulation, the documents referred to in that Article namely:

- (a) the accounts, referred to in Article 137(1) of this Regulation, for the preceding accounting year;
- (b) the management declaration and the annual summary referred to in point (e) of the first subparagraph of Article 125(4) of this Regulation, for the preceding accounting year;
- (c) the audit opinion and the control report referred to in points (a) and (b) of the first subparagraph of Article 127(5) of this Regulation, for the preceding accounting year.

*Article 139***Examination and acceptance of accounts**

1. The Commission shall carry out an examination of the documents submitted by the Member State under Article 138. Upon request by the Commission, the Member State shall provide all necessary additional information to enable the Commission to determine whether the accounts are complete, accurate and true, by the deadline set out in Article 84.

2. The Commission shall accept the accounts where it is able to conclude that the accounts are complete, accurate and true. The Commission shall reach such a conclusion where the audit authority has provided an unqualified audit opinion regarding the completeness, accuracy and veracity of the accounts unless the Commission has specific evidence that the audit opinion on the accounts is unreliable.

3. The Commission shall inform the Member State by the deadline set out in Article 84 as to whether it is able to accept the accounts.

4. If, for reasons attributable to Member State, the Commission is unable to accept the accounts by the deadline set out in Article 84, the Commission shall notify the Member States specifying the reasons in accordance with paragraph 2 of this Article and the actions which are required to be undertaken and the time period for their completion. At the end of the time period for the completion of those actions the Commission shall inform the Member State as to whether it is able to accept the accounts.

5. Issues related to legality and regularity of the underlying transactions concerning expenditure entered in the accounts shall not be taken into account for the purposes of acceptance of the accounts by the Commission. The procedure for examination and acceptance of the accounts shall not interrupt the treatment of applications for interim payments and shall not lead to suspension of payments, without prejudice to Articles 83 and 142.

6. On the basis of the accepted accounts, the Commission shall calculate the amount chargeable to the Funds and to the EMFF for the accounting year and the consequent adjustments in relation to the payments to the Member State. The Commission shall take into account:

- (a) the amounts in the accounts referred to in point (a) of Article 137(1) and to which the co-financing rate for each priority is to be applied;
- (b) the total amount of payments made by the Commission during that accounting year, consisting of:
 - (i) the amount of interim payments paid by the Commission in accordance with Article 130(1) and Article 24; and
 - (ii) the amount of the annual pre-financing paid under Article 134(2).

7. After the calculation carried out under paragraph 6, the Commission shall clear the respective annual pre-financing and pay any additional amount due within 30 days of the acceptance of the accounts. Where there is an amount recoverable from the Member State, it shall be subject to a recovery order issued by the Commission which shall be executed, where possible, by offsetting against amounts due to the Member State under subsequent payments to the same operational programme. Such recovery shall not constitute a financial correction and shall not reduce support from the Funds to the operational programme. The amount recovered shall constitute assigned revenue in accordance with Article 177(3) of the Financial Regulation.

8. Where, after applying the procedure set out in paragraph 4, the Commission is unable to accept the accounts, the Commission shall determine, on the basis of the available information and in accordance with paragraph 6, the amount chargeable to the Funds for the accounting year, and shall inform the Member State. Where the Member State notifies the Commission of its agreement within two months of the transmission by the Commission of the information, paragraph 7 shall apply. In the absence of such agreement, the Commission shall adopt a decision, by means of implementing acts, setting out the amount chargeable to the Funds for the accounting year. Such decision shall not constitute a financial correction and shall not reduce support from the Funds to the operational programme. On the basis of the decision, the Commission shall apply the adjustments to the payments to the Member State in accordance with paragraph 7.

9. The acceptance of the accounts by the Commission, or a decision by the Commission under paragraph 8 of this Article, shall be without prejudice to the application of corrections under Articles 144 and 145.

10. Member States may replace irregular amounts which are detected after the submission of the accounts by making the

corresponding adjustments in the accounts for the accounting year in which the irregularity is detected, without prejudice to Articles 144 and 145.

Article 140

Availability of documents

1. Without prejudice to the rules governing State aid, the managing authority shall ensure that all supporting documents regarding expenditure supported by the Funds on operations for which the total eligible expenditure is less than EUR 1 000 000, are made available to the Commission and the European Court of Auditors upon request for a period of three years from 31 December following the submission of the accounts in which the expenditure of the operation is included.

In the case of operations other than those referred to in the first subparagraph, all supporting documents shall be made available for a two year period from 31 December following the submission of the accounts in which the final expenditure of the completed operation is included.

A managing authority may decide to apply to operations for which the total eligible expenditure is less than EUR 1 000 000 the rule referred to in the second subparagraph.

The time period referred to in the first subparagraph shall be interrupted either in the case of legal proceedings or by a duly justified request of the Commission.

2. The managing authority shall inform beneficiaries of the start date of the period referred to in paragraph 1.

3. The documents shall be kept either in the form of the originals, or certified true copies of the originals, or on commonly accepted data carriers including electronic versions of original documents or documents existing in electronic version only.

4. The documents shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.

5. The procedure for certification of conformity of documents held on commonly accepted data carriers with the original document shall be laid down by the national authorities and shall ensure that the versions held comply with national legal requirements and can be relied on for audit purposes.

6. Where documents exist in electronic form only, the computer systems used shall meet accepted security standards that ensure that the documents held comply with national legal requirements and can be relied on for audit purposes.

Section II

Closure of operational programmes*Article 141***Submission of closure documents and payment of the final balance**

1. In addition to the documents referred to in Article 138, for the final accounting year from 1 July 2023 to 30 June 2024, Member States shall submit a final implementation report for the operational programme or the last annual implementation report for the operational programme supported by the EMFF.

2. The final balance shall be paid no later than three months after the date of acceptance of accounts of the final accounting year or one month after the date of acceptance of the final implementation report, whichever date is later.

Section III

Suspension of payments*Article 142***Suspension of payments**

1. All or part of the interim payments at the level of priorities or operational programmes may be suspended by the Commission if one or more of the following conditions are met:

- (a) there is a serious deficiency in the effective functioning of the management and control system of the operational programme, which has put at risk the Union contribution to the operational programme and for which corrective measures have not been taken;
- (b) expenditure in a statement of expenditure is linked to an irregularity having serious financial consequences which has not been corrected;
- (c) the Member State has failed to take the necessary action to remedy the situation giving rise to an interruption under Article 83;
- (d) there is a serious deficiency in the quality and reliability of the monitoring system or of the data on common and specific indicators;
- (e) there is a failure to complete actions to fulfil an ex ante conditionality subject to the conditions set out in Article 19;
- (f) there is evidence resulting from the performance review for a priority that there has been a serious failure in achieving that priority's milestones relating to financial and output indicators and key implementation steps set out in the performance framework subject to the conditions set out in Article 22.

The Fund-specific rules for the EMFF may lay down specific bases for suspension of payments linked to non-compliance with rules applicable under the Common Fisheries Policy, which shall be proportionate, having regard to the nature, gravity, duration and recurrence of the non-compliance.

2. The Commission may decide, by means of implementing acts, to suspend all or part of interim payments, after having given the Member State the opportunity to present its observations.

3. The Commission shall end suspension of all or part of interim payments where the Member State has taken the necessary measures to enable the suspension to be lifted.

CHAPTER III

Financial corrections

Section I

Financial corrections by Member States*Article 143***Financial corrections by Member States**

1. The Member States shall in the first instance be responsible for investigating irregularities and for making the financial corrections required and pursuing recoveries. In the case of a systemic irregularity, the Member State shall extend its investigation to cover all operations potentially affected.

2. Member States shall make the financial corrections required in connection with individual or systemic irregularities detected in operations or operational programmes. Financial corrections shall consist of cancelling all or part of the public contribution to an operation or operational programme. The Member States shall take into account the nature and gravity of the irregularities and the financial loss to the Funds or the EMFF and shall apply a proportionate correction. Financial corrections shall be recorded in the accounts by the managing authority for the accounting year in which the cancellation is decided.

3. The contribution from the Funds or the EMFF cancelled in accordance with paragraph 2 may be reused by the Member State within the operational programme concerned, subject to paragraph 4.

4. The contribution cancelled in accordance with paragraph 2 may not be reused for any operation that was the subject of the correction or, where a financial correction is made for a systemic irregularity, for any operation affected by the systemic irregularity.

5. The Fund-specific rules for the EMFF may lay down specific bases for financial corrections by the Member States linked to non-compliance with rules applicable under the Common Fisheries Policy, which shall be proportionate, having regard to the nature, gravity, duration and recurrence of the non-compliance.

Section II

Financial corrections by the Commission*Article 144***Criteria for financial corrections**

1. The Commission shall make financial corrections, by means of implementing acts, by cancelling all or part of the Union contribution to an operational programme in accordance with Article 85, where, after carrying out the necessary examination, it concludes that:

- (a) there is a serious deficiency in the effective functioning of the management and control system of the operational programme which has put at risk the Union contribution already paid to the operational programme;
- (b) the Member State has not complied with its obligations under Article 143 prior to the opening of the correction procedure under this paragraph;
- (c) expenditure contained in a payment application is irregular and has not been corrected by the Member State prior to the opening of the correction procedure under this paragraph.

The Commission shall base its financial corrections on individual cases of identified irregularity and shall take account of whether an irregularity is systemic. Where it is not possible to quantify precisely the amount of irregular expenditure charged to the Funds or the EMFF, the Commission shall apply a flat rate or extrapolated financial correction.

2. The Commission shall, when deciding on a correction under paragraph 1, respect the principle of proportionality by taking account of the nature and gravity of the irregularity and the extent and financial implications of the deficiencies in management and control systems found in the operational programme.

3. Where the Commission bases its position on reports of auditors other than those of its own services, it shall draw its own conclusions regarding the financial consequences after examining the measures taken by the Member State concerned under Article 143(2), the notifications sent under Article 122(2), and any replies from the Member State.

4. In accordance with Article 22(7), where the Commission, based on the examination of the final implementation report of the operational programme for the Funds or the last annual implementation report for the EMFF, establishes a serious failure to achieve the targets set out in the performance framework, it may apply financial corrections in respect of the priorities concerned, by means of implementing acts.

5. When a Member State does not comply with its obligations under Article 95, the Commission may, in relation to the degree of non-compliance with those obligations, make a financial correction by cancelling all or part of the Structural Funds contribution to the Member State concerned.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 149, laying down detailed rules

concerning the criteria for determining serious deficiencies in the effective functioning of management and control systems, including the main types of such deficiencies, the criteria for establishing the level of financial correction to be applied and the criteria for applying flat rates or extrapolated financial corrections.

7. The Fund-specific rules for the EMFF may lay down specific bases for financial corrections by the Commission linked to non-compliance with rules applicable under the Common Fisheries Policy which shall be proportionate having regard to the nature, gravity, duration and recurrence of the non-compliance.

*Article 145***Procedure**

1. Before taking a decision on a financial correction, the Commission shall launch the procedure by informing the Member State of the provisional conclusions of its examination and requesting the Member State to submit its comments within two months.

2. Where the Commission proposes a financial correction on the basis of extrapolation or a flat rate, the Member State shall be given the opportunity to demonstrate, through an examination of the documentation concerned, that the actual extent of irregularity is less than the Commission's assessment. In agreement with the Commission, the Member State may limit the scope of this examination to an appropriate proportion or sample of the documentation concerned. Except in duly justified cases, the time allowed for that examination shall not exceed a further period of two months after the two-month period referred to in paragraph 1.

3. The Commission shall take account of any evidence provided by the Member State within the time limits set out in paragraphs 1 and 2.

4. Where the Member State does not accept the provisional conclusions of the Commission, the Member State shall be invited to a hearing by the Commission, in order to ensure that all relevant information and observations are available as a basis for conclusions by the Commission on the application of the financial correction.

5. In the event of an agreement, and without prejudice to paragraph 6 of this Article, the Member State may reuse the Funds concerned in accordance with Article 143(3).

6. In order to apply financial corrections the Commission shall take a decision, by means of implementing acts, within six months of the date of the hearing, or of the date of receipt of additional information where the Member State agrees to submit such additional information following the hearing. The Commission shall take account of all information and observations submitted during the course of the procedure. If no hearing takes place, the six month period shall begin to run two months after the date of the letter of invitation to the hearing sent by the Commission.

7. Where the Commission in carrying out its responsibilities under Article 75, or the European Court of Auditors, detects irregularities demonstrating a serious deficiency in the effective functioning of the management and control systems, the resulting financial correction shall reduce support from the Funds to the operational programme.

The first subparagraph shall not apply in the case of a serious deficiency in the effective functioning of a management and control system which, prior to the date of detection by the Commission or the European Court of Auditors:

- (a) had been identified in the management declaration, annual control report or the audit opinion submitted to the Commission in accordance with Article 59(5) of the Financial Regulation, or in other audit reports of the audit authority submitted to the Commission and appropriate measures taken; or
- (b) had been the subject of appropriate remedial measures by the Member State.

The assessment of serious deficiencies in the effective functioning of management and control systems shall be based on the applicable law when the relevant management declarations, annual control reports and audit opinions were submitted.

When deciding on a financial correction the Commission shall:

- (a) respect the principle of proportionality by taking account of the nature and gravity of the serious deficiency in the effective functioning of a management and control system and its financial implications for the budget of the Union;
- (b) for the purpose of applying a flat rate or extrapolated correction, exclude irregular expenditure previously detected by the Member State which has been the subject of an adjustment in the accounts in accordance with Article 139(10), and expenditure subject to an ongoing assessment of its legality and regularity under Article 137(2);
- (c) take into account flat rate or extrapolated corrections applied to the expenditure by the Member State for other serious deficiencies detected by the Member State when determining the residual risk for the budget of the Union.

8. The Fund-specific rules for the EMFF may lay down additional rules of procedure for financial corrections referred to in Article 144(7).

Article 146

Obligations of Member States

A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under

Article 143(2) of this Regulation and to recover State aid within the meaning of Article 107(1) TFEU and under Article 14 of Council Regulation (EC) No 659/1999 ⁽¹⁾.

Article 147

Repayment

1. Any repayment due to be made to the budget of the Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 73 of the Financial Regulation. The due date shall be the last day of the second month following the issuing of the order.

2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

TITLE III

PROPORTIONAL CONTROL OF OPERATIONAL PROGRAMMES

Article 148

Proportional control of operational programmes

1. Operations for which the total eligible expenditure does not exceed EUR 200 000 for the ERDF and the Cohesion Fund, EUR 150 000 for the ESF or EUR 100 000 for the EMFF shall not be subject to more than one audit by either the audit authority or the Commission prior to the submission of the accounts for the accounting year in which the operation is completed. Other operations shall not be subject to more than one audit per accounting year by either the audit authority or the Commission prior to the submission of the accounts for the accounting year in which the operation is completed. Operations shall not be subject to an audit by the Commission or the audit authority in any year if there has already been an audit in that year by the European Court of Auditors, provided that the results of the audit work performed by the European Court of Auditors for such operations can be used by the audit authority or the Commission for the purpose of fulfilling their respective tasks.

2. For operational programmes for which the most recent audit opinion indicates that there are no significant deficiencies, the Commission may agree with the audit authority in the subsequent meeting referred to in Article 128(3) that the level of audit work required may be reduced so that it is proportionate to the risk established. In such cases, the Commission shall not carry out its own on-the-spot audits unless there is evidence suggesting deficiencies in the management and control system affecting expenditure declared to the Commission in an accounting year for which the accounts have been accepted by the Commission.

⁽¹⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 83, 27.3.1999, p. 1).

3. For operational programmes for which the Commission concludes that the opinion of the audit authority is reliable, it may agree with the audit authority to limit the Commission's own on-the-spot audits to audit the work of the audit authority unless there is evidence of deficiencies in the work of the audit authority for an accounting year for which the accounts have been accepted by the Commission.

4. Notwithstanding paragraph 1, the audit authority and the Commission may carry out audits of operations in the event that a risk assessment or an audit by the European Court of Auditors establishes a specific risk of irregularity or fraud, in the case of evidence of serious deficiencies in the effective functioning of the management and control system of the operational programme concerned, and, during the period referred to in Article 140(1). The Commission may, for the purpose of assessing the work of an audit authority, review the audit trail of the audit authority or take part in the on-the-spot audits of the audit authority and, where, in accordance with internationally accepted audit standards, it is necessary for the purpose of obtaining assurance as to the effective functioning of the audit authority, the Commission may carry out audits of operations.

PART FIVE

DELEGATIONS OF POWER, IMPLEMENTING, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I

Delegations of power and implementing provisions

Article 149

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 5(3), the second paragraph of Article 12, the fourth subparagraph of Article 22(7), Article 37(13), the third subparagraph of Article 38(4), Article 40(4), Article 41(3), the second subparagraph of Article 42(1), Article 42(6), the second, third, fourth and seventh subparagraphs of Article 61 (3), Articles 63(4) and 64(4), the second subparagraph of Article 68(1), the fourth paragraph of Article 101, the fifth subparagraph of Article 122(2), the first subparagraph of Article 125(8), Article 125(9), Article 127(7) and (8) and Article 144(6) shall be conferred on the Commission from 21 December 2013 until 31 December 2020.

3. The delegation of power referred to in Article 5(3), the second paragraph of Article 12, the fourth subparagraph of Article 22(7), Article 37(13), the third subparagraph of Article 38(4), Article 40(4), Article 41(3), the second subparagraph of Article 42(1), Article 42(6), the second, third, fourth and seventh subparagraphs of Article 61 (3), Articles 63(4) and 64(4), the second subparagraph of Article 68(1), the fourth paragraph of Article 101, the fifth subparagraph of Article 122(2), the first subparagraph of Article 125(8), Article 125(9), Article 127(7) and (8) and Article 144(6) may

be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 5(3), the second paragraph of Article 12, the fourth subparagraph of Article 22(7), Article 37(13), the third subparagraph of Article 38(4), Article 40(4), Article 41(3), the second subparagraph of Article 42(1), Article 42(6), the second, third, fourth and seventh subparagraphs of Article 61 (3), Articles 63(4) and 64(4), the second subparagraph of Article 68(1), the fourth paragraph of Article 101, the fifth subparagraph of Article 122(2), the first subparagraph of Article 125(8), Article 125(9), Article 127(7) and (8) and Article 144(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 150

Committee Procedure

1. In the application of this Regulation, the ERDF Regulation, the ETC Regulation, the ESF Regulation and the CF Regulation, the Commission shall be assisted by a Coordination Committee for the European Structural and Investment Funds. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act in respect of the implementing powers referred to in the third paragraph of Article 8, the fifth subparagraph of Article 22(7), the second subparagraph of Article 38(3), Article 38(10), the second subparagraph of Article 39(4), Article 46(3), the second subparagraph of Article 96(2), Article 115(4) and the second subparagraph of Article 125(8), and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

CHAPTER II

Transitional and final provisions

Article 151

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020 in accordance with Article 177 TFEU.

Article 152

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation of assistance approved by the Commission on the basis of Regulation (EC) No 1083/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation shall consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. For the purposes of this paragraph assistance shall cover operational programmes and major projects.

2. Applications to receive assistance made or approved under Regulation (EC) No 1083/2006 shall remain valid.

3. Where a Member State makes use of the option set out in Article 123(3), it may submit a request to the Commission for the managing authority by way of derogation from point (b) of Article 59(1) of Regulation (EC) No 1083/2006 for the corresponding operational programmes implemented on the basis of Regulation (EC) No 1083/2006. The request shall be accompanied by an assessment made by the audit authority.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
R. ŠADŽIUS

Where the Commission is satisfied on the basis of information made available from the audit authority and from its own audits that the management and control systems of those operational programmes function effectively and that their functioning will not be prejudiced by the managing authority carrying out the functions of the certifying authority, it shall inform the Member State of its agreement within two months of the date of receipt of the request.

Article 153

Repeal

1. Without prejudice to the provisions laid down in Article 152, Regulation (EC) No 1083/2006 is hereby repealed with effect from 1 January 2014.

2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex XIV.

Article 154

Entry into force

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

Articles 20 to 24, Article 29(3), point (a) of Article 38(1), Articles 58, 60, 76 to 92, 118, 120, 121 and Articles 129 to 147 shall apply with effect from 1 January 2014.

The second sentence of the seventh subparagraph of Article 39(2) and the fifth paragraph of Article 76 shall apply with effect from the date on which the amendment to the Financial Regulation relating to the decommitment of appropriations has entered into force.

ANNEX I

COMMON STRATEGIC FRAMEWORK

1. INTRODUCTION

In order to promote the harmonious, balanced and sustainable development of the Union and to maximise the contribution of the ESI Funds to the Union strategy for smart, sustainable and inclusive growth as well as the Fund-specific missions of the ESI Funds, including economic, social and territorial cohesion, it is necessary to ensure that policy commitments made in the context of the Union strategy for smart, sustainable and inclusive growth are underpinned by investment through the ESI Funds and other Union instruments. The Common Strategic Framework (CSF) shall therefore, in accordance with Article 10, and in compliance with the priorities and objectives laid down in the Fund-specific Regulations, provide strategic guiding principles in order to achieve an integrated development approach using the ESI Funds coordinated with other Union instruments and policies, in line with the policy objectives and headline targets of the Union strategy for smart, sustainable and inclusive growth and, where appropriate, the flagship initiatives, while taking into account the key territorial challenges and specific national, regional and local contexts.

2. CONTRIBUTION OF ESI FUNDS TO THE UNION STRATEGY FOR SMART, SUSTAINABLE AND INCLUSIVE GROWTH AND COHERENCE WITH THE UNION'S ECONOMIC GOVERNANCE

1. To support effective targeting of smart, sustainable and inclusive growth in the Partnership Agreements and programmes this Regulation identifies eleven thematic objectives, set out in the first paragraph of Article 9, corresponding to the priorities of the Union strategy for smart, sustainable and inclusive growth which shall receive support from the ESI Funds.

2. In line with the thematic objectives set out in the first paragraph of Article 9, Member States shall, in order to ensure critical mass necessary to deliver growth and jobs, concentrate support in accordance with Article 18 of this Regulation and with the Fund-specific rules on thematic concentration, and shall ensure the effectiveness of spending. Member States shall give particular attention to prioritising growth-friendly expenditure, including spending on education, research, innovation and energy efficiency and expenditure to facilitate the access of SMEs to finance, and to ensure environmental sustainability, and the management of natural resources and climate action as well as to modernise public administration. They shall also take account of maintaining or reinforcing the coverage and effectiveness of employment services and active labour market policies in order to combat unemployment, with a focus on youth and tackle the social consequences of the crisis, and promote social inclusion.

3. To ensure consistency with priorities established in the context of the European Semester, in preparing their Partnership Agreements, Member States shall plan the use of the ESI Funds taking into account the National Reform Programmes, where appropriate, and the most recent relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and relevant Council recommendations adopted in accordance with Article 148(4) TFEU in accordance with their respective roles and obligations. Member States, where necessary, shall also take into account relevant Council recommendations based on the Stability and Growth Pact and the economic adjustment programmes.

4. In order to determine the way in which the ESI Funds can most effectively contribute to the Union strategy for smart, sustainable and inclusive growth, and to take account of the Treaty objectives, including economic, social and territorial cohesion, Member States shall select the thematic objectives for the planned use of the ESI Funds within the appropriate national, regional and local contexts.

3. INTEGRATED APPROACH TO AND ARRANGEMENTS FOR THE USE OF THE ESI FUNDS

3.1 Introduction

1. In accordance with point (a) of Article 15(2) the Partnership Agreement shall indicate an integrated approach to territorial development. Member States shall ensure that the selection of thematic objectives and investment and Union priorities addresses development needs and territorial challenges in an integrated manner in line with the analysis set out in section 6.4. Member States shall seek to make maximum use of the possibilities for ensuring coordinated and integrated delivery of the ESI funds.

2. Member States and, where appropriate in accordance with Article 4(4), regions shall ensure that the interventions supported through the ESI Funds are complementary and are implemented in a coordinated manner with a view to creating synergies, in order to reduce the administrative cost and burden for managing bodies and beneficiaries in accordance with Articles 4, 15 and 27.

3.2 Coordination and complementarity

1. Member States and managing authorities responsible for the implementation of the ESI Funds shall work closely together in the preparation, implementation, monitoring and evaluation of the Partnership Agreement and programmes. In particular, they shall ensure that the following actions are carried out:
 - (a) identify areas of intervention where the ESI Funds can be combined in a complementary manner to achieve the thematic objectives set out in this Regulation;
 - (b) ensure in accordance with Article 4(6), the existence of arrangements for the effective coordination of the ESI Funds in order to increase the impact and effectiveness of the Funds including, where appropriate, through the use of multi-fund programmes for the Funds;
 - (c) promote the involvement of managing authorities responsible for other ESI Funds and relevant ministries in the development of support schemes to ensure coordination and synergies and to avoid overlaps;
 - (d) establish, where appropriate, joint monitoring committees for programmes implementing the ESI Funds, and the development of other joint management and control arrangements to facilitate coordination between authorities responsible for the implementation of the ESI Funds;
 - (e) make use of available joint eGovernance solutions, which may assist applicants and beneficiaries, and make the widest possible use of "one-stop shops", including for advice on the opportunities of support available through each of the ESI Funds;
 - (f) establish mechanisms to coordinate cooperation activities financed by the ERDF and the ESF with investments supported by the programmes under the Investment for growth and jobs goal;
 - (g) promote common approaches between ESI Funds with regard to guidance for the development of operations, calls for proposals and selection processes or other mechanisms to facilitate access to Funds for integrated projects;
 - (h) encourage cooperation between managing authorities of different ESI Funds in the areas of monitoring, evaluation, management and control, and audit.

3.3 Encouraging integrated approaches

1. Member States shall, where appropriate, combine the ESI Funds into integrated packages at local, regional or national level, which are tailor-made to address specific territorial challenges in order to support the achievement of the objectives set out in the Partnership Agreement and programmes. This can be done using ITIs, Integrated operations, Joint Action Plans and community-led local development.
2. In accordance with Article 36 to achieve integrated use of thematic objectives, funding from different priority axes or operational programmes supported by the ESF, ERDF and Cohesion Fund may be combined under an ITI. Actions carried out under an ITI may be complemented with financial support from the programmes under the EAFRD or the EMFF respectively.
3. In accordance with the relevant provisions of the Fund-specific rules, to increase impact and effectiveness in a thematically coherent integrated approach a priority axis may concern more than one category of region, combine one or more complementary investment priorities from the ERDF, Cohesion Fund and ESF under one thematic objective and, in duly justified cases combine one or more complementary investment priorities from different thematic objectives in order to achieve the maximum contribution to that priority axis.
4. Member States shall promote, in accordance with their institutional and legal framework and with Article 32 the development of local and sub-regional approaches. Community-led local development shall be implemented in the context of a strategic approach to ensure that the 'bottom-up' definition of local needs takes account of priorities set at a higher level. Member States shall therefore define the approach to community-led local development in the EAFRD and, where appropriate, in the ERDF, the ESF or the EMFF in accordance with Article 15(2) and shall indicate in the Partnership Agreement the main challenges to be tackled in this way, the main objectives and priorities for community-led local development, the types of territories to be covered, the specific role to be attributed to local action groups in the delivery of strategies and the role envisaged for the EAFRD and where appropriate for the ERDF, the ESF or the EMFF in implementing community-led local development strategies in different types of territories such as rural, urban and coastal areas and the corresponding co-ordination mechanisms.

4. COORDINATION AND SYNERGIES BETWEEN ESI FUNDS AND OTHER UNION POLICIES AND INSTRUMENTS

Coordination by Member States as envisaged under this section shall apply in so far as a Member State intends to make use of support from the ESI Funds and other Union instruments in the relevant policy area. The Union programmes set out in this section do not constitute an exhaustive list.

4.1 Introduction

1. Member States and the Commission shall, in accordance with their respective responsibilities, take into consideration the impact of Union policies at national and regional level, and on social, economic and territorial cohesion with a view to fostering synergies and effective coordination and to identifying and promoting the most suitable means of using Union funds to support local, regional and national investment. Member States shall also ensure complementarity between Union policies and instruments and national, regional and local interventions.

2. Member States and the Commission shall, in accordance with Article 4(6) and with their respective responsibilities, ensure coordination between the ESI Funds and other relevant Union instruments at Union and Member State level. They shall take appropriate steps to ensure consistency, at programming and implementation stages, between interventions supported by the ESI Funds and the objectives of other Union policies. To this end, they shall seek to take into account the following aspects:

(a) enhancing complementarities and synergies between different Union instruments at Union, national and regional level, both in the planning phase and during implementation;

(b) optimise existing structures and where necessary, establish new structures that facilitate the strategic identification of priorities for the different instruments and structures for coordination at Union and national level that avoid duplication of effort and identify areas where additional financial support is needed;

(c) make use of the potential to combine support from different instruments to support individual operations and work closely with those responsible for implementation at Union and national level to deliver coherent and streamlined funding opportunities for beneficiaries.

4.2 Coordination with the Common Agricultural Policy and the Common Fisheries Policy

1. The EAFRD is an integral part of the Common Agricultural Policy and complements the measures under the European Agricultural Guarantee Fund which provide direct support to farmers and support market measures. Member States shall therefore manage those interventions together so as to maximise synergies and the added value of Union support.

2. The EMFF aims to achieve the objectives of the reformed Common Fisheries Policy and of the Integrated Maritime Policy. Member States shall therefore make use of the EMFF to support efforts to improve data collection and strengthen control, and ensure that synergies are also sought in support of the priorities of Integrated Maritime Policy, such as marine knowledge, maritime spatial planning, integrated coastal zone management, integrated maritime surveillance, the protection of the marine environment and of biodiversity, and the adaptation to the adverse effects of climate change on coastal areas.

4.3 Horizon 2020 and other centrally managed Union programmes in the areas of research and innovation

1. Member States and the Commission shall have due regard to strengthening coordination, synergies and complementarities between the ESI Funds and Horizon 2020, the Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) in accordance with Regulation (EU) No 1287/2013 of the European Parliament and of the Council⁽¹⁾, and other relevant centrally managed Union funding programmes while also establishing a clear division of areas of intervention between them.

2. Member States shall develop national and/or regional 'smart specialisation' strategies in line with the National Reform Programme, where appropriate. Such strategies may take the form of or be included in a national or a regional research and innovation strategic policy framework for 'smart specialisation'. Smart specialisation strategies shall be developed through involving national or regional managing authorities and stakeholders such as universities and other higher education institutions, industry and social partners in an entrepreneurial discovery process. The authorities directly concerned by Horizon 2020 shall be closely associated with that process. Smart specialisation strategies shall include:

⁽¹⁾ Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC (See page 33 of this Official Journal).

- (a) "Upstream actions" to prepare regional R&I players to participate in Horizon 2020 ("stairways to excellence") to be developed, where necessary, through capacity- building. Communication and cooperation between Horizon 2020 national contact points and managing authorities of the ESI Funds shall be strengthened.
- (b) "Downstream actions" to provide the means to exploit and diffuse R&I results, stemming from Horizon 2020 and preceding programmes, into the market with particular emphasis on creating an innovation-friendly environment for business and industry, including SMEs and in line with the priorities identified for the territories in the relevant smart specialisation strategy.
3. Member States shall encourage the use of the provisions in this Regulation that allow the ESI Funds to be combined with resources under Horizon 2020 in the relevant programmes used to implement parts of the strategies referred to in point 2. Joint support shall be provided to national and regional authorities for the design and implementation of such strategies, to identify opportunities for joint financing of R&I infrastructures of European interest, the promotion of international collaboration, methodological support through peer reviews, exchange of good practice, and training throughout regions.
4. Member States and, where appropriate under Article 4(4), regions, shall consider additional measures aimed at unlocking their potential for excellence in R&I, in a manner that is complementary to and creates synergies with Horizon 2020, in particular through joint funding. Those measures shall consist of:
- (a) linking excellent research institutions and less developed regions as well as low- performing Research, Development and Innovation (RDI) Member States and regions to create new or upgrade existing centres of excellence in less developed regions as well as in low-performing RDI Member States and regions;
- (b) building links in less developed regions as well as in low-performing RDI Member States and regions between innovative clusters of recognised excellence;
- (c) establishing "ERA Chairs" to attract outstanding academics, in particular to less developed regions and low-performing RDI Member States and regions;
- (d) supporting access to international networks for researchers and innovators who lack sufficient involvement in the European Research Area (ERA) or are from less developed regions or low-performing RDI Member States and regions;
- (e) contributing as appropriate to the European Innovation Partnerships;
- (f) preparing national institutions and/or clusters of excellence for participation in the Knowledge and Innovation Communities (KICs) of the European Institute of Innovation and Technology (EIT); and
- (g) hosting high-quality international researcher mobility programmes with co-funding from the "Marie Skłodowska-Curie Actions".

Member States shall endeavour to use where appropriate, and in accordance with Article 70, the flexibility to support operations outside the programme area, with a level of investment sufficient to attain a critical mass, in order to implement the measures referred to in the first subparagraph as effectively as possible.

4.4 New Entrants Reserve (NER) 300 demonstration funding ⁽¹⁾

Member States shall ensure that financing from the ESI Funds is coordinated with support from the NER 300 Programme, which uses the revenues from auctioning 300 million allowances reserved under the new entrants reserve of the European Emissions Trading Scheme.

⁽¹⁾ Commission Decision 2010/670/EU of 3 November 2010 laying down criteria and measures for the financing of commercial demonstration projects that aim at the environmentally safe capture and geological storage of CO₂ as well as demonstration projects of innovative renewable energy technologies under the scheme for greenhouse gas emission allowance trading within the Community established by Directive 2003/87/EC of the European Parliament and of the Council (OJ L 290, 6.11.2010, p. 39).

4.5 Programme for the Environment and Climate Action (LIFE) ⁽¹⁾ and the environmental acquis

1. Member States and the Commission shall, through a stronger thematic focus in programmes and the application of the principle of sustainable development in accordance with Article 8, seek to exploit synergies with Union policy instruments (both funding and non-funding instruments) serving climate change mitigation and adaptation, environmental protection and resource efficiency.
2. Member States shall promote and, where appropriate and in accordance with Article 4, ensure complementarity and coordination with LIFE, in particular with integrated projects in the areas of nature, biodiversity, water, waste, air, climate change mitigation and adaptation. Such coordination shall be achieved through measures such as promoting the funding of activities through the ESI Funds that complement integrated projects under LIFE as well as by promoting the use of solutions, methods and approaches validated under LIFE, inter alia, including investments in green infrastructure, energy efficiency, eco-innovation, ecosystem-based solutions, and the adoption of related innovative technologies.
3. The relevant sectoral plans, programmes or strategies (including the Prioritised Action Framework, the River Basin Management Plan, the Waste Management Plan, the mitigation plan or adaptation strategy) may serve as the coordination framework, where support is envisaged for the areas concerned.

4.6 ERASMUS + ⁽²⁾

1. Member States shall seek to use ESI Funds to mainstream tools and methods developed and tested successfully under "Erasmus +" in order to maximise the social and economic impact of investment in people and, inter alia give impetus to youth initiatives and citizens actions.
2. Member States shall promote and ensure in accordance with Article 4, effective coordination between ESI Funds and 'Erasmus +' at national level through a clear distinction in the types of investment and target groups supported. Member States shall seek complementarity with regard to the funding of mobility actions.
3. Coordination shall be achieved by putting in place appropriate cooperation mechanisms between managing authorities and the national agencies established under the 'Erasmus +' programme, which can foster transparent and accessible communication towards citizens at Union, national and regional level.

4.7 European Union Programme for Employment and Social Innovation (EaSI) ⁽³⁾

1. Member States shall promote and ensure in accordance with Article 4(6) effective coordination between the European Union Programme for Employment and Social Innovation (EaSI) and the support provided by the ESI Funds under the employment and social inclusion thematic objectives. That effective coordination includes coordination of support provided under the EURES axis of the EaSI with actions to enhance transnational labour mobility supported by the ESF in order to promote workers' geographical mobility and boost employment opportunities, as well as coordination between the ESI Funds' support for self-employment, entrepreneurship, business creation and social enterprises and the EaSI support under the microfinance and social entrepreneurship axis.
2. Member States shall seek to scale-up the most successful measures developed under the Progress axis of the EaSI, notably on social innovation and social policy experimentation with the support of the ESF.

4.8 Connecting Europe Facility (CEF) ⁽⁴⁾

1. To maximise European added value in the fields of transport, telecommunication and energy, Member States and the Commission shall ensure that ERDF and Cohesion Fund interventions are planned in close cooperation with the support provided from the CEF, so as to ensure complementarity, avoid duplication of efforts and ensure the optimal linkage of different types of infrastructure at local, regional and national levels, and across the Union.

⁽¹⁾ Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 (See page 185 of this Official Journal).

⁽²⁾ Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing "Erasmus+": the Union programme for education, training, youth and sport and repealing Decisions Nos 1719/2006/EC, 1720/2006/EC and 1298/2008/EC (See page 50 of this Official Journal).

⁽³⁾ Regulation (EU) No 1296/2013 of the European Parliament and of the Council of 11 December 2013 on a European Union Programme for Employment and Social Innovation ("EaSI") and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion (See page 238 of this Official Journal).

⁽⁴⁾ Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013, establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

Maximum leverage of the different funding instruments shall be ensured for projects with a Union and Internal Market dimension, which deliver the highest European added-value, and promote social economic and territorial cohesion, in particular those projects implementing the priority transport, energy and digital infrastructure networks as identified in the respective trans-European network policy frameworks, in order to build new infrastructure and substantially upgrade existing infrastructure.

2. In the field of transport, investment planning shall be based on real and projected transport demand and identify missing links and bottlenecks, taking into account, in a coherent approach, the development of Union cross border links, and developing links across regions within a Member State. Investments in regional connectivity to the comprehensive trans-European transport network (TEN-T) and to the core TEN-T network shall ensure that urban and rural areas benefit from the opportunities created by major networks.
 3. Prioritisation of investments which have an impact beyond a certain Member State, particularly those which are part of the core TEN-T network corridors, shall be coordinated with TEN-T planning and core network corridors implementation plans, so that investments by the ERDF and the Cohesion Fund in transport infrastructure are fully in line with the TEN-T Guidelines.
 4. Member States shall focus on sustainable forms of transport and sustainable urban mobility and on investing in areas that offer the greatest European added value, taking into account the need to improve the quality, accessibility and reliability of transport services to promote public transport. Once identified, investments shall be prioritised according to their contribution to mobility, sustainability, to reducing greenhouse gas emissions, and to the Single European Transport Area, in accordance with the vision set out in the White Paper entitled "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system", highlighting that a significant reduction in greenhouse gases is required in the transport sector. The contribution of projects to sustainable European freight transport networks through the development of inland waterways should be promoted on the basis of a prior assessment of their environmental impact.
 5. The ESI Funds shall deliver the local and regional infrastructures and their linkages to the priority Union networks in the energy and telecommunication areas.
 6. Member States and the Commission shall put in place appropriate coordination and technical support mechanisms to ensure the complementarity and effective planning of ICT measures to make full use of the different Union instruments (ESI Funds, CEF, Trans-European networks, Horizon 2020) for the financing of broadband networks and the digital service infrastructures. The selection of the most appropriate financing instrument shall take into account the revenue generating potential of the operation and its level of risk in order to make the most effective use of public funds. In the context of their evaluation of applications for support from the ESI Funds, Member States should have regard to the evaluations of operations relating to those that have been submitted for CEF but not selected, without prejudice to the final selection decision by the managing authority.
- 4.9 Instrument for Pre-accession Assistance, European Neighbourhood Instrument and European Development Fund
1. Member States and the Commission shall, in accordance with their respective responsibilities, seek to increase coordination between external instruments and the ESI Funds to improve effectiveness in achieving multiple Union policy objectives. Coordination and complementarities with the European Development Fund, the Pre Accession Instrument and the European Neighbourhood Instrument is particularly important.
 2. To support deeper territorial integration, Member States shall seek to capitalise on synergies between territorial cooperation activities under cohesion policy and the European Neighbourhood Instruments, in particular with regard to cross border cooperation activities, taking account of the potential offered by EGTCs.
5. HORIZONTAL PRINCIPLES REFERRED TO IN ARTICLES 5, 7 AND 8 AND CROSS-CUTTING POLICY OBJECTIVES
- 5.1 Partnership and multi-level governance
1. In accordance with Article 5, the principle of partnership and multi-level governance shall be respected by Member States in order to facilitate achieving social, economic and territorial cohesion and delivery of the Union's priorities of smart, sustainable and inclusive growth. In order to respect those principles coordinated action is required, in particular between the different levels of governance, carried out in accordance with the principles of subsidiarity and proportionality, including by means of operational and institutional cooperation, with regard to the preparation and implementation of the Partnership Agreement and programmes.

- 2 Member States shall examine the need for strengthening the institutional capacity of partners in order to develop their potential in contributing to the effectiveness of the partnership.

5.2 Sustainable development

1. Member States and managing authorities shall, in all phases of implementation, ensure the full mainstreaming of sustainable development into the ESI Funds, respecting the principle of sustainable development as laid down in Article 3(3) TEU, as well as complying with the obligation to integrate environmental protection requirements pursuant to Article 11 TFEU and the polluter pays principle as set out in Article 191(2) TFEU.

Managing authorities shall undertake actions throughout the programme lifecycle, to avoid or reduce environmentally harmful effects of interventions and ensure results in net social, environmental and climate benefits. Actions to be undertaken may include the following:

- (a) directing investments towards the most resource-efficient and sustainable options;
 - (b) avoiding investments that may have a significant negative environmental or climate impact, and supporting actions to mitigate any remaining impacts;
 - (c) taking a long-term perspective when 'life-cycle' costs of alternative options for investment are compared;
 - (d) increasing the use of green public procurement.
2. Member States shall take into consideration the climate change mitigation and adaptation potential of investments made with the support of the ESI Funds, in accordance with Article 8, and ensure that they are resilient to the impact of climate change and natural disasters such as increased risks of flooding, droughts, heat waves, forest fires and extreme weather events.
 3. Investments shall be consistent with the water management hierarchy, in line with Directive 2000/60/EC of the European Parliament and of the Council ⁽¹⁾, with a focus on demand management options. Alternative supply options shall only be considered when the potential for water savings and efficiency has been exhausted. Public intervention in the waste management sector shall complement efforts by the private sector, in particular in relation to producer responsibility. Investments shall encourage innovative approaches that promote high levels of recycling. Investments shall be consistent with the waste hierarchy established under Directive 2008/98/EC of the European Parliament and of the Council ⁽²⁾. Expenditure related to biodiversity and the protection of natural resources shall be consistent with Council Directive 92/43/EEC ⁽³⁾.

5.3 Promotion of equality between men and women and non-discrimination

1. In accordance with Article 7, Member States and the Commission shall pursue the objective of equality between men and women and shall take appropriate steps to prevent any discrimination during the preparation, implementation, monitoring and evaluation of operations in the programmes co-financed by the ESI Funds. When pursuing the objectives of Article 7, Member States shall describe actions to be taken, in particular with regard to selection of operations, setting of objectives for interventions, and arrangements for monitoring and reporting. Member States shall also carry out gender analyses where appropriate. In particular, specific targeted actions shall be supported through the ESF.
2. Member States shall ensure, in accordance with Articles 5 and 7, the participation of the relevant bodies responsible for promoting gender equality and non-discrimination in the partnership, and ensure adequate structures in accordance with national practices to advise on gender equality, non-discrimination and accessibility in order to provide the necessary expertise in the preparation, monitoring and evaluation of the ESI Funds.
3. Managing authorities shall undertake evaluations or self-assessment exercises, in coordination with the monitoring committees, focusing on the application of the gender mainstreaming principle.

⁽¹⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽²⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

⁽³⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

4. Member States shall address, in an appropriate manner, the needs of disadvantaged groups in order to allow them to better integrate into the labour market, and thereby facilitate their full participation in society.

5.4 Accessibility

1. Member States and the Commission shall, in accordance with Article 7, take appropriate steps to prevent any discrimination based on disability. Managing authorities shall ensure by means of action throughout programme lifecycles that all products, goods, services and infrastructures that are open or provided to the public and are co-financed by the ESI Funds are accessible to all citizens including those with disabilities in accordance with applicable law, thereby contributing to a barrier-free environment for persons with disabilities and the elderly. In particular, accessibility to the physical environment, transport, ICT in order to promote inclusion of disadvantaged groups, including persons with disabilities, shall be ensured. Actions to be undertaken may include directing investments towards accessibility in existing buildings and established services.

5.5 Addressing demographic change

1. The challenges resulting from demographic change, including in particular those related to a shrinking working population, an increasing proportion of retired people in the overall population and to depopulation, shall be taken into account at all levels. Member States shall make use of the ESI Funds, in line with relevant national or regional strategies, where such strategies are in place, to tackle demographic problems and to create growth linked to an ageing society.
2. Member States shall use the ESI Funds, in line with relevant national or regional strategies to facilitate inclusion of all age groups, including through improved access to education and social support structures with a view to enhancing job opportunities for the elderly and young people and with a focus on regions with high rates of youth unemployment in comparison to the Union average rate. Investments in health infrastructures shall be aimed at ensuring a long and healthy working life for all of the Union's citizens.
3. To address challenges in the regions most affected by demographic change, Member States shall in particular identify measures to:
 - (a) support demographic renewal through better conditions for families and an improved balance between working and family life;
 - (b) boost employment, raise productivity and economic performance through investing in education, ICT and research and innovation;
 - (c) focus on the adequacy and quality of education, training and social support structures as well as where appropriate, on the efficiency of social protection systems;
 - (d) promote cost-effective provision of health care and long-term care including investment in e-health, e-care and infrastructure.

5.6 Climate change mitigation and adaptation

In accordance with Article 8, climate change mitigation and adaptation, and risk prevention shall be integrated in the preparation and implementation of Partnership Agreements and programmes.

6. ARRANGEMENTS FOR ADDRESSING KEY TERRITORIAL CHALLENGES

- 6.1 Member States shall take account of geographic or demographic features and take steps to address the specific territorial challenges of each region to unlock their specific development potential, thereby also helping them to achieve smart, sustainable and inclusive growth in the most efficient way.
- 6.2 The choice and combination of thematic objectives, as well as the selection of corresponding investment and Union priorities and the specific objectives set shall reflect the needs and potential for smart, sustainable and inclusive growth of each Member State and region.

- 6.3 When preparing Partnership Agreements and programmes Member States shall therefore take into consideration that the major societal challenges faced by the Union today – globalisation, demographic change, environmental degradation, migration, climate change, energy use, the economic and social consequences of the crisis – may have different impacts in different regions.
- 6.4 With a view to an integrated territorial approach to addressing territorial challenges Member States shall ensure that programmes under the ESI Funds reflect the diversity of European regions, in terms of employment and labour market characteristics, interdependencies between different sectors, commuting patterns, population ageing and demographic shifts, cultural, landscape and heritage features, climate change vulnerabilities and impacts, land use and resource constraints, potential for more sustainable use of natural resources including renewables, institutional and governance arrangements, connectivity and accessibility, and linkages between rural and urban areas. In accordance with point (a) of Article 15(1), Member States and regions shall therefore undertake the following steps for the purpose of preparation of their Partnership Agreements and programmes:
- (a) An analysis of the Member State's or region's characteristics, development potential and capacity, particularly in relation to the key challenges identified in the Union strategy for smart, sustainable and inclusive growth, the National Reform Programmes, where appropriate, relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and in relevant Council recommendations adopted in accordance with Article 148(4) TFEU;
 - (b) An assessment of the major challenges to be addressed by the region or Member State, the identification of the bottlenecks and missing links, innovation gaps, including the lack of planning and implementation capacity that inhibit the long-term potential for growth and jobs. This shall form the basis for the identification of the possible fields and activities for policy prioritisation, intervention and concentration;
 - (c) An assessment of the cross-sectoral, cross-jurisdictional or cross-border coordination challenges, particularly in the context of macro-regional and sea-basin strategies;
 - (d) Identification of steps to achieve improved coordination across different territorial levels, taking account of the appropriate territorial scale and context for policy design as well as Member States' institutional and legal framework, and sources of funding to deliver an integrated approach linking the Union strategy for smart, sustainable and inclusive growth with regional and local actors.
- 6.5 In order to take into account the objective of territorial cohesion, the Member States and regions shall, in particular, ensure that the overall approach to promoting smart, sustainable and inclusive growth in the areas concerned:
- (a) reflects the role of cities, urban and rural areas, fisheries and coastal areas, and areas facing specific geographical or demographic handicaps;
 - (b) takes account of the specific challenges of the outermost regions, the northernmost regions with a very low population density and of island, cross-border or mountain regions;
 - (c) addresses urban-rural linkages, in terms of access to affordable, high quality infrastructure and services, and problems in regions with a high concentration of socially marginalised communities.

7. COOPERATION ACTIVITIES

7.1 Coordination and complementarity

1. Member States shall seek complementarity between cooperation activities and other actions supported by the ESI Funds.
2. Member States shall ensure that cooperation activities make an effective contribution to the objectives of the Union strategy for smart, sustainable and inclusive growth and that cooperation is organised in support of wider policy goals. To achieve this Member States and the Commission shall, in accordance with their respective responsibilities, ensure complementarity and coordination with other Union-funded programmes or instruments.

3. To reinforce the effectiveness of cohesion policy Member States shall seek coordination and complementarity between programmes under the European territorial cooperation goal and the Investment for growth and jobs goal, in particular to ensure coherent planning and facilitate the implementation of large-scale investment.
4. Member States shall, where appropriate, ensure that the objectives of macro-regional and sea-basin strategies form part of the overall strategic planning, in Partnership Agreements, in accordance with Article 15(2) of this Regulation, and in programmes in the regions and Member States concerned in accordance with the relevant provisions of the Fund-specific rules. Member States shall seek also to ensure that where macro-regional and sea basin strategies have been put in place, the ESI Funds support their implementation in accordance with Article 15(2) of this Regulation and the relevant provisions of the Fund-specific rules and in line with the needs of the programme area identified by the Member States. To ensure efficient implementation there shall also be coordination with other Union-funded instruments and other relevant instruments.
5. Member States shall, where appropriate, make use of the possibility of carrying out interregional and transnational actions with beneficiaries located in at least one other Member State within the framework of the operational programmes under the Investment for growth and jobs goal, including on the implementation of relevant research and innovation measures emanating from their 'smart specialisation' strategies.
6. Member States and regions shall make the best use of territorial cooperation programmes in overcoming barriers to cooperation beyond administrative borders, while contributing to the Union strategy for smart, sustainable and inclusive growth as well as strengthening economic, social and territorial cohesion. In this context, particular attention shall be paid to the regions covered by Article 349 TFEU.

7.2 Cross-border, transnational and interregional cooperation under the ERDF

1. Member States and regions shall seek to make use of cooperation to achieve critical mass, inter alia, in the field of ICT and research and innovation, and also to promote the development of joint smart specialisation approaches and partnerships among educational institutions. Interregional cooperation shall, where appropriate, include fostering cooperation between innovative research-intensive clusters and exchanges between research institutions taking into consideration the experience of "Regions of Knowledge" and "Research Potential in Convergence and Outermost Regions" under the Seventh Framework Programme for Research.
2. Member States and regions shall, in the areas concerned, seek to draw on cross-border and transnational cooperation to:
 - (a) ensure that areas that share major geographical features (islands, lakes, rivers, sea basins or mountain ranges) support the joint management and promotion of their natural resources;
 - (b) exploit the economies of scale that can be achieved, in particular with regard to investment related to the shared use of common public services;
 - (c) promote coherent planning and development of cross-border network infrastructure, in particular missing cross-border links, and environmentally friendly and interoperable transport modes in larger geographical areas;
 - (d) achieve critical mass, particularly in the field of research and innovation and ICT, education and in relation to measures improving the competitiveness of SMEs;
 - (e) strengthen cross-border labour market services to foster the mobility of workers across borders;
 - (f) improve cross-border governance.
3. Member States and regions shall seek to make use of interregional cooperation to reinforce the effectiveness of Cohesion Policy by encouraging exchange of experience between regions and cities to enhance design and implementation of programmes under the Investment for growth and jobs goal and the European territorial cooperation goal.

7.3 Contribution of mainstream programmes to macro-regional and sea-basin strategies

1. In accordance with point (a)(ii) of Article 15(2) of this Regulation and the relevant provisions of the Fund-specific rules Member States shall seek to ensure successful mobilisation of Union funding for macro-regional and sea-basin strategies in line with the needs of the programme area identified by the Member States. Ensuring successful mobilisation may be done, among other actions, by prioritising operations deriving from macro-regional and sea-basin strategies by organising specific calls for them or giving priority to these operations in the selection process through identification of operations which can be jointly financed from different programmes.
2. Member States shall consider making use of relevant transnational programmes as frameworks to support the range of policies and funds needed to implement macro-regional and sea-basin strategies.
3. Member States shall promote, where appropriate, the use of ESI Funds in the context of macro-regional strategies, for the creation of European transport corridors, including supporting modernisation of customs, the prevention, preparedness and response to natural disasters, water management at river basin level, green infrastructure, integrated maritime cooperation across borders and sectors, R&I and ICT networks and management of shared marine resources in the sea basin and protection of marine biodiversity.

7.4 Transnational cooperation under the ESF

1. Member States shall seek to address policy areas identified in the relevant Council recommendations in order to maximise mutual learning.
 2. Member States shall, where appropriate, select the themes for transnational activities and establish appropriate implementation mechanisms in accordance with their specific needs.
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ANNEX II

METHOD FOR ESTABLISHING THE PERFORMANCE FRAMEWORK

1. The performance framework shall consist of milestones established for each priority, with the exception of priorities dedicated to technical assistance and programmes dedicated to financial instruments in accordance with Article 39, for the year 2018 and targets established for 2023. The milestones and targets shall be presented in accordance with the format set out in table 1.

Table 1: Standard format for the performance framework

Priority	Indicator and measurement unit, where appropriate		Milestone for 2018	Target for 2023

2. Milestones are intermediate targets, directly linked to the achievement of the specific objective of a priority, where appropriate, expressing the intended progress towards the targets set for the end of the period. Milestones established for 2018 shall include financial indicators, output indicators and, where appropriate result indicators, which are closely linked to the supported policy interventions. Result indicators shall not be taken into account for the purposes of Article 22(6) and (7). Milestones may also be established for key implementation steps.
3. Milestones and targets shall be:
- realistic, achievable, relevant, capturing essential information on the progress of a priority;
 - consistent with the nature and character of the specific objectives of the priority;
 - transparent, with objectively verifiable targets and the source data identified and, where possible, publicly available;
 - verifiable, without imposing a disproportionate administrative burden;
 - consistent across programmes, where appropriate.
4. The targets for 2023 for a given priority shall be established taking into account the amount of performance reserve related to the priority.
5. In duly justified cases, such as a significant change in the economic, environmental and labour market conditions in a Member State or region, and in addition to amendments resulting from changes in allocations for a given priority, that Member State may propose the revision of milestones and targets in accordance with Article 30.

ANNEX III

PROVISIONS FOR DETERMINING THE SCOPE AND THE LEVEL OF SUSPENSION OF COMMITMENTS OR PAYMENTS REFERRED TO IN ARTICLE 23(11)

1. DETERMINING THE LEVEL OF SUSPENSION OF COMMITMENTS

The maximum level of suspension applied to a Member State shall in the first instance be determined taking into account the ceilings set out in points (a) to (c) of the third subparagraph of Article 23(11). That level shall be reduced if one or more of the following apply:

- (a) where the unemployment rate in the Member State for the year preceding the trigger event referred to in Article 23(9) exceeds the average rate for the Union by more than two percentage points, the maximum level of suspension shall be reduced by 15 %;
- (b) where the unemployment rate in the Member State for the year preceding the trigger event referred to in Article 23(9) exceeds the average rate for the Union by more than five percentage points, the maximum level of suspension shall be reduced by 25 %;
- (c) where the unemployment rate in the Member State for the year preceding the trigger event referred to in Article 23(9) exceeds the average rate for the Union by more than eight percentage points, the maximum level of suspension shall be reduced by 50 %;
- (d) where the proportion of people at risk of poverty or social exclusion in the Member State exceeds the average for the Union by more than 10 percentage points for the year preceding the trigger event referred to in Article 23(9), the maximum level of suspension shall be reduced by 20 %;
- (e) where the Member State experiences a contraction of real GDP for two or more consecutive years preceding the trigger event referred to in Article 23(9), the maximum level of suspension shall be reduced by 20 %;
- (f) where the suspension concerns commitments for the years 2018, 2019 or 2020, a reduction shall be applied to the level resulting from the application of Article 23(11) as follows:
 - (i) for the year 2018, the level of suspension shall be reduced by 15 %;
 - (ii) for the year 2019, the level of suspension shall be reduced by 25 %;
 - (iii) for the year 2020, the level of suspension shall be reduced by 50 %.

The reduction in the level of suspension resulting from the application of points (a) to (f) shall not exceed in total 50 %.

In the event that the situation described in point (b) or (c) occurs simultaneously with both points (d) and (e), the effect of the suspension shall be postponed by one year.

2. DETERMINING THE SCOPE OF SUSPENSION OF COMMITMENTS ACROSS PROGRAMMES AND PRIORITIES

A suspension of commitments applied to a Member State shall in the first instance proportionally affect all programmes and priorities.

However, the following programmes and priorities shall be excluded from the scope of the suspension:

- (i) programmes or priorities which are already subject to a suspension decision adopted in accordance with Article 23(6);
- (ii) programmes or priorities whose resources are to be increased as a result of a reprogramming request addressed by the Commission in accordance with Article 23(1) in the year of the trigger event referred to in Article 23(9);
- (iii) programmes or priorities whose resources have been increased within the two years preceding the trigger event referred to in Article 23(9) as a result of a decision adopted in accordance with Article 23(5);

(iv) programmes or priorities which are of critical importance to addressing adverse economic or social conditions. Such programmes or priorities shall cover programmes or priorities supporting investments of particular importance to the Union related to the YEL. Programmes or priorities may be considered of such critical importance when they support investments related to the implementation of recommendations addressed to the Member State concerned in the framework of the European Semester and aimed at structural reforms, or related to priorities supporting poverty reduction or to financial instruments for the competitiveness of SMEs.

3. DETERMINING THE FINAL LEVEL OF SUSPENSION OF COMMITMENTS FOR THE PROGRAMMES FALLING WITHIN THE SCOPE OF THE SUSPENSION

The exclusion of a priority within a programme shall be carried out by reducing the commitment of the programme pro rata to the allocation to the priority.

The level of suspension to be applied to the commitments of the programmes shall be that which is necessary to reach the aggregate level of suspension determined under point 1.

4. DETERMINING THE SCOPE AND THE LEVEL OF SUSPENSION OF PAYMENTS

The programmes and priorities referred to under point 2(i) to (iv) shall also be excluded from the scope of suspension of payments.

The level of suspension to be applied shall not exceed 50 % of the payments of programmes and priorities.

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ANNEX IV

IMPLEMENTATION OF FINANCIAL INSTRUMENTS: FUNDING AGREEMENTS

1. Where a financial instrument is implemented under points (a) and (b) of Article 38(4), the funding agreement shall include the terms and conditions for making contributions from the programme to the financial instrument and shall include at least the following elements:
 - (a) the investment strategy or policy including implementation arrangements, financial products to be offered, final recipients targeted, and envisaged combination with grant support (as appropriate);
 - (b) a business plan or equivalent documents for the financial instrument to be implemented, including the expected leverage effect referred to in Article 37(2);
 - (c) the target results that the financial instrument concerned is expected to achieve to contribute to the specific objectives and results of the relevant priority;
 - (d) provisions for monitoring of the implementation of investments and of deal flows including reporting by the financial instrument to the fund of funds and/or the managing authority to ensure compliance with Article 46;
 - (e) audit requirements, such as minimum requirements for documentation to be kept at the level of the financial instrument (and at the level of the fund of funds where appropriate), and requirements in relation to the maintenance of separate records for the different forms of support in compliance with Article 37(7) and (8) (where applicable), including provisions and requirements regarding access to documents by audit authorities of Member States, Commission auditors and the European Court of Auditors in order to ensure a clear audit trail, in accordance with Article 40;
 - (f) requirements and procedures for managing the phased contribution provided by the programme in accordance with Article 41 and for the forecast of deal flows, including requirements for fiduciary/separate accounting as set out in Article 38(6);
 - (g) requirements and procedures for managing interest and other gains generated as referred to in Article 43, including acceptable treasury operations/investments, and the responsibilities and liabilities of the parties concerned;
 - (h) provisions regarding the calculation and payment of management costs incurred or of the management fees of the financial instrument;
 - (i) provisions regarding the re-utilisation of resources attributable to the support from the ESI Funds until the end of the eligibility period in compliance with Article 44;
 - (j) provisions regarding the use of resources attributable to the support of the ESI Funds after the end of the eligibility period in compliance with Article 45 and an exit policy for the contribution from the ESI Funds out of the financial instrument;
 - (k) conditions for a possible total or partial withdrawal of programme contributions from programmes to financial instruments, including the fund of funds where applicable;
 - (l) provisions to ensure that bodies implementing financial instruments manage financial instruments with independence and in accordance with the relevant professional standards, and act in the exclusive interest of the parties providing contributions to the financial instrument;
 - (m) provisions for the winding-up of the financial instrument.

In addition, where financial instruments are organised through a fund of funds, the funding agreement between the managing authority and the body that implements the fund of funds must also provide for the appraisal and selection of bodies implementing the financial instruments, including calls for expression of interest or public procurement procedures.

2. Strategy documents referred to under Article 38(8) for financial instruments implemented under point (c) of Article 38(4) shall include at least the following elements:
 - (a) the investment strategy or policy of the financial instrument, general terms and conditions of envisaged debt products, target recipients and actions to be supported;

- (b) a business plan or equivalent documents for the financial instrument to be implemented, including the expected leverage effect referred to in Article 37(2);
 - (c) the use and re-use of resources attributable to the support of the ESI Funds in accordance with Articles 43, 44 and 45;
 - (d) monitoring and reporting of the implementation of the financial instrument to ensure compliance with Article 46.
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ANNEX V

DEFINITION OF FLAT-RATES FOR NET-REVENUE GENERATING PROJECTS

	Sector	Flat rates
1	ROAD	30 %
2	RAIL	20 %
3	URBAN TRANSPORT	20 %
4	WATER	25 %
5	SOLID WASTE	20 %

ANNEX VI

ANNUAL BREAKDOWN OF COMMITMENT APPROPRIATIONS FOR 2014 TO 2020

Adjusted annual profile (including YEI top-up)

	2014	2015	2016	2017	2018	2019	2020	Total
EUR, 2011 prices	44 677 333 745	45 403 321 660	46 044 910 729	46 544 721 007	47 037 288 589	47 513 211 563	47 924 907 446	325 145 694 739

ANNEX VII

ALLOCATION METHODOLOGY

Allocation method for the less developed regions eligible under the Investment for growth and jobs goal, referred to in point (a) of the first subparagraph of Article 90(2)

1. Each Member State's allocation shall be the sum of the allocations for its individual eligible NUTS level 2 regions, calculated in accordance with the following steps:
 - (a) determination of an absolute amount (in EUR) obtained by multiplying the population of the region concerned by the difference between that region's GDP per capita, measured in PPS, and the EU-27 average GDP per capita (in PPS);
 - (b) application of a percentage to the above absolute amount in order to determine that region's financial envelope; this percentage shall be graduated to reflect the relative prosperity, measured in PPS, as compared to the EU-27 average, of the Member State in which the eligible region is situated, i.e.:
 - (i) for regions in Member States whose level of GNI per capita is below 82 % of the EU-27 average: 3,15 %;
 - (ii) for regions in Member States whose level of GNI per capita is between 82 % and 99 % of the EU-27 average: 2,70 %;
 - (iii) for regions in Member States whose level of GNI per capita is over 99 % of the EU-27 average: 1,65 %;
 - (c) to the amount obtained in accordance with point (b) is added, if applicable, an amount resulting from the allocation of a premium of EUR 1 300 per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number that would be unemployed if the average unemployment rate of all the EU less developed regions applied.

Allocation method for transition regions eligible under the Investment for growth and jobs goal, referred to in point (b) of the first subparagraph of Article 90(2)

2. Each Member State's allocation shall be the sum of the allocations for its individual eligible NUTS level 2 regions, calculated in accordance with the following steps:
 - (a) determination of the minimum and maximum theoretical aid intensity for each eligible transition region. The minimum level of support is determined by the average per capita aid intensity per Member State before the application of the regional safety net, allocated to the more developed regions of that Member State. If the Member State has no more developed regions, the minimum level of support will correspond to the initial average per capita aid intensity of all more developed regions, i.e. EUR 19,80 per head and per year. The maximum level of support refers to a theoretical region with a GDP per head of 75 % of the EU-27 average and is calculated using the method defined in points (a) and (b) of paragraph 1. Of the amount obtained by this method, 40 % is taken into account;
 - (b) calculation of initial regional allocations, taking into account regional GDP per capita (in PPS) through a linear interpolation of the region's relative GDP per capita compared to EU-27;
 - (c) to the amount obtained in accordance with point (b) is added, if applicable, an amount resulting from the allocation of a premium of EUR 1 100 per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number that would be unemployed if the average unemployment rate of all the less developed regions applied.

Allocation method for the more developed regions eligible under the Investment for growth and jobs goal, referred to in point (c) of the first subparagraph of Article 90(2)

3. The total initial theoretical financial envelope shall be obtained by multiplying an aid intensity per head and per year of EUR 19,80 by the eligible population.
4. The share of each Member State concerned shall be the sum of the shares of its eligible NUTS level 2 regions, which are determined on the basis of the following criteria, weighted as indicated:
 - (a) total regional population (weighting 25 %);

- (b) number of unemployed people in NUTS level 2 regions with an unemployment rate above the average of all more developed regions (weighting 20 %);
- (c) employment to be added to reach the Union strategy for smart, sustainable and inclusive growth target for regional employment rate (ages 20 to 64) of 75 % (weighting 20 %);
- (d) number of persons aged 30 to 34 with tertiary educational attainment to be added to reach the Union strategy for smart, sustainable and inclusive growth target of 40 % (weighting 12,5 %);
- (e) number of early leavers from education and training (aged 18 to 24) to be subtracted to reach the Union strategy for smart, sustainable and inclusive growth target of 10 % (weighting 12,5 %);
- (f) difference between the observed GDP of the region (measured in PPS), and the theoretical regional GDP if the region were to have the same GDP per head as the most prosperous NUTS level 2 region (weighting 7,5 %);
- (g) population of NUTS level 3 regions with a population density below 12,5 inhabitants/km² (weighting 2,5 %).

Allocation method for the Member States eligible for the Cohesion Fund under Article 90(3)

5. The total theoretical financial envelope shall be obtained by multiplying the average aid intensity per head and per year of EUR 48 by the eligible population. Each eligible Member State's a priori allocation of this theoretical financial envelope corresponds to a percentage based on its population, surface area and national prosperity, and shall be obtained by applying the following steps:
 - (a) calculation of the arithmetical average of that Member State's population and surface area shares of the total population and surface area of all the eligible Member States. If, however, a Member State's share of total population exceeds its share of total surface area by a factor of five or more, reflecting an extremely high population density, only the share of total population will be used for this step;
 - (b) adjustment of the percentage figures so obtained by a coefficient representing one third of the percentage by which that Member State's GNI per capita (measured in purchasing power parities) for the period 2008-2010 exceeds or falls below the average GNI per capita of all the eligible Member States (average expressed as 100 %).
6. In order to reflect the significant needs of Member States, which acceded to the Union on or after 1 May 2004, in terms of transport and environment, their share of the Cohesion Fund will be set at a minimum of one third of their total final financial allocation after capping as defined in paragraphs 10 to 13 received on average over the period.
7. The allocation from the Cohesion Fund for the Member States defined in the second subparagraph of Article 90(3) shall be digressive over seven years. This transitional support will be of EUR 48 per capita in 2014, applied to the total population of the Member State. The amounts in the following years will be expressed as a percentage of the amount defined for 2014, the percentages being 71 % in 2015, 42 % in 2016, 21 % in 2017, 17 % in 2018, 13 % in 2019 and 8 % in 2020.

Allocation method for the European territorial cooperation goal referred to in Article 4 of the ETC Regulation

8. The allocation of resources by Member State, covering cross-border and transnational cooperation, and including the contribution from the ERDF to the European Neighbourhood Instrument and the Instrument for Pre-Accession Assistance, is determined as the weighted sum of the share of the population of border regions and of the share of the total population of each Member State. The weight is determined by the respective shares of the cross-border and transnational strands. The shares of the cross border and transnational cooperation components are 77,9 % and 22,1 %.

Allocation method of the additional funding for regions referred to in point (e) of Article 92(1)

9. An additional special allocation corresponding to an aid intensity of EUR 30 per inhabitant per year will be allocated to the outermost NUTS level 2 regions and the northern sparsely populated NUTS level 2 regions. That allocation will be distributed per region and Member State in a manner proportional to the total population of those regions.

Maximum level of transfers from funds supporting cohesion

10. In order to contribute to achieving adequate concentration of cohesion funding on the least developed regions and Member States and to the reduction of disparities in average per capita aid intensities, the maximum level of transfer (capping) from the Funds to each individual Member State will be 2,35 % of the GDP of the Member State. The capping will be applied on an annual basis, subject to adjustments necessary to accommodate the frontloading of the YEI, and will - if applicable - proportionally reduce all transfers (except for the more developed regions and European territorial cooperation goal) to the Member State concerned in order to obtain the maximum level of transfer. For Member States which acceded to the Union before 2013 and whose average real GDP growth 2008-2010 was lower than -1 %, the maximum level of transfer will be 2,59 %.
11. The ceilings referred to in paragraph 10 above include the contributions from the ERDF to the financing of the cross-border strand of the European Neighbourhood Instrument and of the Instrument for Pre-Accession Assistance. Those ceilings do not include the specific allocation of EUR 3 000 000 000 for the YEI.
12. Calculations of GDP by the Commission will be based on the statistics available in May 2012. Individual national growth rates of GDP for 2014 to 2020, as projected by the Commission in May 2012, will be applied for each Member State separately.
13. The rules described in paragraph 10 shall not result in allocations per Member State higher than 110 % of their level in real terms for the 2007-2013 programming period.

Additional provisions

14. For all regions whose GDP per capita (in PPS) was used as an eligibility criterion for the 2007-2013 programming period and was less than 75 % of the EU-25 average, but whose GDP per capita is above 75 % of the EU-27 average, the minimum level of support in 2014-2020 under the Investment for growth and jobs goal will correspond every year to 60 % of their former indicative average annual allocation under the Convergence allocation, calculated by the Commission within the multiannual financial framework 2007-2013.
15. No transition region shall receive less than what it would have received if it had been a more developed region. In order to determine the level of this minimum allocation, the allocation distribution method for more developed regions will be applied to all regions having a GDP per capita of at least 75 % of the EU-27 average.
16. The minimum total allocation from the Funds for a Member State shall correspond to 55 % of its individual 2007-2013 total allocation. The adjustments needed to fulfil this requirement shall be applied proportionally to the allocations from the Funds, excluding the allocations under the European territorial cooperation goal.
17. To address the effects of the economic crisis on Member States within the euro area on their level of prosperity, and in order to boost growth and job creation in these Member States, the Structural Funds will provide the following additional allocations:
 - (a) EUR 1 375 000 000 for the more developed regions of Greece;
 - (b) EUR 1 000 000 000 for Portugal, distributed as follows: EUR 450 000 000 for more developed regions, of which EUR 150 000 000 for Madeira, EUR 75 000 000 for the transition region and EUR 475 000 000 for the less developed regions;
 - (c) EUR 100 000 000 for the Border, Midland and Western region of Ireland;
 - (d) EUR 1 824 000 000 for Spain, of which EUR 500 000 000 for Extremadura, EUR 1 051 000 000 for the transition regions and EUR 273 000 000 for the more developed regions;
 - (e) EUR 1 500 000 000 for the less developed regions of Italy, out of which EUR 500 000 000 for non-urban areas.
18. In order to recognise the challenges posed by the situation of island Member States and the remoteness of certain parts of the Union, Malta and Cyprus shall receive, after applying the method of calculation referred to in paragraph 16, an additional envelope of EUR 200 000 000 and EUR 150 000 000 respectively under the Investment for growth and jobs goal and distributed as follows: one third for the Cohesion Fund and two thirds for the Structural Funds.

The Spanish regions of Ceuta and Melilla shall be allocated an additional total envelope of EUR 50 000 000 under the Structural Funds.

The outermost region of Mayotte shall be allocated a total envelope of EUR 200 000 000 under the Structural Funds.

19. To facilitate the adjustment of certain regions either to changes in their eligibility status or to the long-lasting effects of recent developments in their economy the following additional allocations are made:
- (a) for Belgium EUR 133 000 000, out of which EUR 66 500 000 for Limburg and EUR 66 500 000 for the transition regions of the Region of Wallonia;
 - (b) for Germany EUR 710 000 000, out of which EUR 510 000 000 for the former Convergence regions in the transition regions' category and EUR 200 000 000 for the Leipzig region;
 - (c) notwithstanding paragraph 10, the less developed regions of Hungary will be allocated an additional envelope of EUR 1 560 000 000, the less developed regions of the Czech Republic an additional envelope of EUR 900 000 000 and the less developed region of Slovenia an additional envelope of EUR 75 000 000, under the Structural Funds.
20. A total of EUR 150 000 000 will be allocated for the PEACE programme, of which EUR 106 500 000 for the United Kingdom and EUR 43 500 000 for Ireland. That programme will be implemented as a cross-border cooperation programme involving Northern Ireland and Ireland.

Additional adjustments in accordance with Article 92(2)

21. In addition to the amounts set out in Articles 91 and 92, Cyprus shall benefit from an additional allocation of EUR 94 200 000 in 2014 and EUR 92 400 000 in 2015 to be added to its Structural Funds allocation.
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ANNEX VIII

METHODOLOGY CONCERNING THE SPECIFIC ALLOCATION FOR THE YEI REFERRED TO IN ARTICLE 91

- I. The breakdown of the specific allocation for the YEI shall be determined in accordance with the following steps:
 1. The number of young unemployed persons between the ages of 15-24 shall be identified in the eligible NUTS level 2 regions as defined in Article 16 of the ESF Regulation, namely NUTS level 2 regions that have youth unemployment rates for young persons aged 15 to 24 of more than 25 % in 2012 and, for Member States where the youth unemployment rate has increased by more than 30 % in 2012, regions that have youth unemployment rates of more than 20 % in 2012 (the 'eligible regions').
 2. The allocation corresponding to each eligible region shall be calculated on the basis of the ratio between the number of young unemployed persons in the eligible region and the total number of young unemployed persons referred to in point 1 in all eligible regions.
 3. The allocation for each Member State shall be the sum of the allocations for each of its eligible regions.
 - II. The specific allocation for the YEI shall not be taken into account for the purpose of applying the capping rules set out in Annex VII in relation to the allocation of the global resources.
 - III. For the determination of the specific allocation from the YEI to Mayotte, the youth unemployment rate and number of young unemployed persons shall be determined on the basis of the latest available data at national level as long as Eurostat data at NUTS level 2 are not available.
 - IV. The resources for the YEI may be revised upwards for the years 2016 to 2020 in the framework of the budgetary procedure in accordance with Article 14 of Regulation (UE, Euratom) No 1311/2013. The breakdown by Member State of the additional resources shall follow the same steps as applied for the initial allocation but shall refer to the latest available annual data.
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ANNEX IX

METHODOLOGY FOR DETERMINING MINIMUM SHARE OF THE ESF

The additional percentage share to be added to the share of Structural Funds resources referred to in Article 92(4) allocated in a Member State to the ESF which corresponds to the share of that Member State for the 2007-2013 programming period shall be determined as follows, based on employment rates (for persons between the ages of 20-64) of reference year 2012:

- where the employment rate is 65 % or less the share shall be increased by 1,7 percentage points;
- where the employment rate is above 65 % but not higher than 70 % the share shall be increased by 1,2 percentage points;
- where the employment rate is above 70 % but not higher than 75 % the share shall be increased by 0,7 percentage points;
- where the employment rate is above 75 %, no increase shall be required.

The total percentage share of a Member State after the addition shall not exceed 52 % of Structural Funds resources referred to in Article 92(4).

For Croatia the share of Structural Funds resources, excluding the European Territorial Cooperation goal, allocated to the ESF for the 2007-2013 programming period shall be the average share of convergence regions of those Member States which acceded to the Union on or after 1 January 2004.

ANNEX X

ADDITIONALITY

1. PUBLIC OR EQUIVALENT STRUCTURAL EXPENDITURE

In Member States in which less developed regions cover at least 65 % of the population, the figure on gross fixed capital formation reported in the Stability and Convergence Programmes, prepared by Member States in accordance with Regulation (EC) No 1466/97 to present their medium term budgetary strategy, will be used to determine public or equivalent structural expenditure. The figure to be used shall be that reported in the context of the general government balance and debt and related to general government budgetary prospects and shall be presented as a percentage of GDP.

In those Member States in which less developed regions cover more than 15 % and less than 65 % of the population, the total figure on gross fixed capital formation in the less developed regions will be used to determine public or equivalent structural expenditure. It shall be reported in the same format as laid down in the first subparagraph.

2. VERIFICATION

Verifications of additionality in accordance with Article 95(5) are subject to the following rules:

2.1 Ex ante verification

- (a) When a Member State submits a Partnership Agreement, it shall provide information on the planned profile of expenditure in the format of Table 1.

Table 1

Expenditure of the General Government as a share of GDP	2014	2015	2016	2017	2018	2019	2020
P51	X	X	X	X	X	X	X

- (b) Member States, in which less developed regions cover more than 15 % and less than 65 % of the population, shall also provide information on the planned profile of expenditure in those less developed regions in the format of Table 2.

Table 2

	2014	2015	2016	2017	2018	2019	2020
Gross Fixed Capital Formation of the General Government in the less developed regions as a share of GDP	X	X	X	X	X	X	X

- (c) Member States shall provide to the Commission information on the main macroeconomic indicators and forecasts underlying the level of public or equivalent structural expenditure.
- (d) Member States, in which less developed regions cover more than 15 % and less than 65 % of the population, shall also provide to the Commission information on the method used to estimate gross fixed capital formation in those regions. For this purpose, Member States shall use regional level public investment data where available. In the event that such data is not available, or in other duly justified cases, including where a Member State for the period 2014-2020 has significantly changed the regional breakdown as defined in Regulation (EC) No 1059/2003, gross fixed capital formation can be estimated by applying regional public expenditure indicators or regional population to national level public investment data.
- (e) Once there is agreement by the Commission and the Member State, Table 1 and, where applicable, Table 2 will be included in the Partnership Agreement of the Member State concerned as the reference level of the public or equivalent structural expenditure to be maintained in the years 2014-2020.

2.2 Mid-term verification

- (a) At the time of the mid-term verification, a Member State shall be deemed to have maintained the level of public or equivalent structural expenditure if the annual average of expenditure in the years 2014-2017 is equal to or higher than the reference level of expenditure set in the Partnership Agreement.
- (b) Following the mid-term verification, the Commission may revise, in consultation with a Member State, the reference level of public or equivalent structural expenditure in the Partnership Agreement if the economic situation of the Member State has significantly changed from that estimated at the time of adoption of the Partnership Agreement.

2.3 Ex post verification

At the time of the ex post verification, a Member State shall be deemed to have maintained the level of public or equivalent structural expenditure if the annual average of expenditure in the years 2014-2020 is equal to or higher than the reference level of expenditure set in the Partnership Agreement.

3. FINANCIAL CORRECTION RATES FOLLOWING EX POST VERIFICATION

Where the Commission decides to carry out a financial correction in accordance with Article 95(6), the rate of financial correction shall be obtained by subtracting 3 % from the difference between the reference level in the Partnership Agreement and the level achieved, expressed as a percentage of the reference level, and then dividing the result by 10. The financial correction shall be determined by applying that rate of financial correction to the Funds' contribution to the Member State concerned for the less developed regions for the full programming period.

If the difference between the reference level in the Partnership Agreement and the level achieved, expressed as a percentage of the reference level in the Partnership Agreement, is 3 % or less, no financial correction shall be made.

The financial correction shall not exceed 5 % of the Funds' allocation to the Member State concerned for the less developed regions for the full programming period.

ANNEX XI

Ex ante conditionalities

PART I: Thematic ex ante conditionalities

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
<p>1. Strengthening research, technological development and innovation</p> <p>(R&D target)</p> <p>(referred to in point (1) of the first paragraph of Article 9)</p>	<p>ERDF:</p> <ul style="list-style-type: none"> — All investment priorities under thematic objective no. 1. 	<p>1.1. Research and innovation: The existence of a national or regional smart specialisation strategy in line with the National Reform Program, to leverage private research and innovation expenditure, which complies with the features of well-performing national or regional R&I systems.</p>	<ul style="list-style-type: none"> — A national or regional smart specialisation strategy is in place that: <ul style="list-style-type: none"> — is based on a SWOT or similar analysis to concentrate resources on a limited set of research and innovation priorities; — outlines measures to stimulate private RTD investment; — contains a monitoring mechanism. — A framework outlining available budgetary resources for research and innovation has been adopted.
	<p>ERDF:</p> <ul style="list-style-type: none"> — Enhancing research and innovation (R&I) infrastructure and capacities to develop R&I excellence, and promoting centres of competence, in particular those of European interest. 	<p>1.2 Research and Innovation infrastructure. The existence of a multi-annual plan for budgeting and prioritisation of investments.</p>	<ul style="list-style-type: none"> — An indicative multi-annual plan for budgeting and prioritisation of investments linked to Union priorities, and, where appropriate, the European Strategy Forum on Research Infrastructures (ESFRI) has been adopted.
<p>2. Enhancing access to, and use and quality of, information and communication technologies (ICT) (Broadband target)</p> <p>(referred to in point (2) of the first paragraph of Article 9)</p>	<p>ERDF:</p> <ul style="list-style-type: none"> — Developing ICT products and services, e-commerce, and enhancing demand for ICT. — Strengthening ICT applications for e-government, e-learning, e-inclusion, e-culture and e-health. 	<p>2.1. Digital growth: A strategic policy framework for digital growth to stimulate affordable, good quality and interoperable ICT-enabled private and public services and increase uptake by citizens, including vulnerable groups, businesses and public administrations including cross border initiatives.</p>	<ul style="list-style-type: none"> — A strategic policy framework for digital growth, for instance, within the national or regional smart specialisation strategy is in place that contains: <ul style="list-style-type: none"> — budgeting and prioritisation of actions through a SWOT or similar analysis consistent with the Scoreboard of the Digital Agenda for Europe; — an analysis of balancing support for demand and supply of ICT should have been conducted;

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
			<ul style="list-style-type: none"> — indicators to measure progress of interventions in areas such as digital literacy, e-inclusion, e-accessibility, and progress of e-health within the limits of Article 168 TFEU which are aligned, where appropriate, with existing relevant sectoral Union, national or regional strategies; — assessment of needs to reinforce ICT capacity-building.
	<p>ERDF:</p> <ul style="list-style-type: none"> — Extending broadband deployment and the roll-out of high-speed networks and supporting the adoption of emerging technologies and networks for the digital economy. 	<p>2.2. Next Generation Network (NGN) Infrastructure: The existence of national or regional NGN Plans which take account of regional actions in order to reach the Union high-speed Internet access targets, focusing on areas where the market fails to provide an open infrastructure at an affordable cost and of a quality in line with the Union competition and State aid rules, and to provide accessible services to vulnerable groups.</p>	<ul style="list-style-type: none"> — A national or regional NGN Plan is in place that contains: <ul style="list-style-type: none"> — a plan of infrastructure investments based on an economic analysis taking account of existing private and public infrastructures and planned investments; — sustainable investment models that enhance competition and provide access to open, affordable, quality and future-proof infrastructure and services; — measures to stimulate private investment.
<p>3. Enhancing the competitiveness of small and medium-sized enterprises (SMEs)</p> <p>(referred to in point (3) of the first paragraph of Article 9)</p>	<p>ERDF:</p> <ul style="list-style-type: none"> — Promoting entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new firms, including through business incubators. — Supporting the capacity of SMEs to grow in regional, national and international market, and to engage in innovation processes. 	<p>3.1. Specific actions have been carried out to underpin the promotion of entrepreneurship taking into account the Small Business Act (SBA).</p>	<ul style="list-style-type: none"> — The specific actions are: <ul style="list-style-type: none"> — measures have been put in place with the objective of reducing the time and cost involved in setting-up a business taking account of the targets of the SBA; — measures have been put in place with the objective of reducing the time needed to get licenses and permits to take up and perform the specific activity of an enterprise taking account of the targets of the SBA;

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
			<ul style="list-style-type: none"> — a mechanism is in place to monitor the implementation of the measures of the SBA which have been put in place and assess the impact on SMEs.
<p>4. Supporting the shift towards a low-carbon economy in all sectors</p> <p>(referred to in point (4) of the first paragraph of Article 9)</p>	<p>ERDF + Cohesion Fund:</p> <ul style="list-style-type: none"> — Supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector. 	<p>4.1. Actions have been carried out to promote cost-effective improvements of energy end use efficiency and cost-effective investment in energy efficiency when constructing or renovating buildings.</p>	<ul style="list-style-type: none"> — The actions are: <ul style="list-style-type: none"> — measures to ensure minimum requirements are in place related to the energy performance of buildings consistent with Article 3, Article 4 and Article 5 of Directive 2010/31/EU of the European Parliament and of the Council ⁽¹⁾; — measures necessary to establish a system of certification of the energy performance of buildings consistent with Article 11 of Directive 2010/31/EU; — measures to ensure strategic planning on energy efficiency, consistent with Article 3 of Directive 2012/27/EU of the European Parliament and of the Council ⁽²⁾; — measures consistent with Article 13 of Directive 2006/32/EC of the European Parliament and of the Council ⁽³⁾ on energy end-use efficiency and energy services to ensure the provision to final customers of individual meters in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings.
	<p>ERDF + Cohesion Fund:</p> <ul style="list-style-type: none"> — Promoting the use of high-efficiency co-generation of heat and power based on useful demand. 	<p>4.2. Actions have been carried out to promote high-efficiency co-generation of heat and power.</p>	<ul style="list-style-type: none"> — The actions are: <ul style="list-style-type: none"> — Support for co-generation is based on useful heat demand and primary energy savings consistent with Article 7(1) and points (a) and (b) of Article 9(1) of Directive 2004/8/EC, Member States or their competent bodies have evaluated the existing legislative and regulatory framework with regard to authorisation procedures or other procedures in order to:

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
			<p>(a) encourage the design of co-generation units to match economically justifiable demands for useful heat output and avoid production of more heat than useful heat; and</p> <p>(b) reduce the regulatory and non-regulatory barriers to an increase in co-generation.</p>
	<p>ERDF + Cohesion Fund:</p> <p>— Promoting the production and distribution of energy derived from renewable sources.</p>	<p>4.3. Actions have been carried out to promote the production and distribution of renewable energy sources ⁽⁴⁾.</p>	<p>— Transparent support schemes, priority in grid access or guaranteed access and priority in dispatching, as well as standard rules relating to the bearing and sharing of costs of technical adaptations which have been made public are in place consistent with Article 14(1), Article 16(2) and 16(3) of Directive 2009/28/EC of the European Parliament and of the Council ⁽⁴⁾.</p> <p>— A Member State has adopted a national renewable energy action plan consistent with Article 4 of Directive 2009/28/EC.</p>
<p>5. Promoting climate change adaptation, risk prevention and management</p> <p>(Climate change target) (referred to in point (5) of the first paragraph of Article 9)</p>	<p>ERDF + Cohesion Fund:</p> <p>— Promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems.</p>	<p>5.1. Risk prevention and risk management: the existence of national or regional risk assessments for disaster management, taking into account climate change adaptation</p>	<p>— A national or regional risk assessment with the following elements shall be in place:</p> <p>— a description of the process, methodology, methods, and non-sensitive data used for risk assessment as well as of the risk-based criteria for the prioritisation of investment;</p> <p>— a description of single-risk and multi-risk scenarios;</p> <p>— taking into account, where appropriate, national climate change adaptation strategies.</p>

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
<p>6. Preserving and protecting the environment and promoting resource efficiency</p> <p>(referred to in point (6) of the first paragraph of Article 9)</p>	<p>ERDF + Cohesion Fund:</p> <p>— Investing in the water sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States for investment that goes beyond those requirements.</p>	<p>6.1. Water sector: The existence of a) a water pricing policy which provides adequate incentives for users to use water resources efficiently and b) an adequate contribution of the different water uses to the recovery of the costs of water services at a rate determined in the approved river basin management plan for investment supported by the programmes.</p>	<p>— In sectors supported by the ERDF and the Cohesion Fund, a Member State has ensured a contribution of the different water uses to the recovery of the costs of water services by sector consistent with the first indent of Article 9(1) of Directive 2000/60/EC having regard, where appropriate, to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.</p> <p>— The adoption of a river basin management plan for the river basin district consistent with Article 13 of Directive 2000/60/EC</p>
	<p>ERDF + Cohesion Fund:</p> <p>— Investing in the waste sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements.</p>	<p>6.2. Waste sector: Promoting economically and environmentally sustainable investments in the waste sector particularly through the development of waste management plans consistent with Directive 2008/98/EC, and with the waste hierarchy.</p>	<p>— An implementation report as requested by Article 11(5) of Directive 2008/98/EC has been submitted to the Commission on progress towards meeting the targets set out in Article 11 of Directive 2008/98/EC.</p> <p>— The existence of one or more waste management plans as required under Article 28 of Directive 2008/98/EC;</p> <p>— The existence of waste prevention programmes, as required under Article 29 of Directive 2008/98/EC;</p> <p>— Necessary measures to achieve the targets on preparation for re-use and recycling by 2020 consistent with Article 11(2) of Directive 2008/98/EC have been adopted.</p>

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
<p>7. Promoting sustainable transport and removing bottlenecks in key network infrastructures</p> <p>(referred to in point (7) of the first paragraph of Article 9)</p>	<p>ERDF + Cohesion Fund:</p> <ul style="list-style-type: none"> — Supporting a multimodal Single European Transport Area by investing in the TEN-T. — Developing and rehabilitating comprehensive, high quality and interoperable railway systems, and promoting noise-reduction measures. — Developing and improving environmentally-friendly (including low-noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility. <p>ERDF:</p> <ul style="list-style-type: none"> — Enhancing regional mobility by connecting secondary and tertiary nodes to TEN-T infrastructure, including multimodal nodes. 	<p>7.1. Transport: The existence of a comprehensive plan or plans or framework or frameworks for transport investment in accordance with the Member States' institutional set-up (including public transport at regional and local level) which supports infrastructure development and improves connectivity to the TEN-T comprehensive and core networks.</p>	<ul style="list-style-type: none"> — The existence of a comprehensive transport plan or plans or framework or frameworks for transport investment which complies with legal requirements for strategic environmental assessment and sets out: <ul style="list-style-type: none"> — the contribution to the single European Transport Area consistent with Article 10 of Regulation (EU) No 1315/2013 of the European Parliament and of the Council⁽³⁾, including priorities for investments in: <ul style="list-style-type: none"> — the core TEN-T network and the comprehensive network where investment from the ERDF and the Cohesion Fund is envisaged; and — secondary connectivity; — a realistic and mature pipeline for projects for which support from the ERDF and the Cohesion Fund is envisaged; — Measures to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline.
	<p>ERDF + Cohesion Fund:</p> <ul style="list-style-type: none"> — Supporting a multimodal Single European Transport Area by investing in the TEN-T. — Developing and rehabilitating comprehensive, high quality and interoperable railway systems, and promoting noise-reduction measures. 	<p>7.2. Railway: The existence within the comprehensive transport plan or plans or framework or frameworks of a specific section on railway development in accordance with the Member States' institutional set-up (including concerning public transport at regional and local level) which supports infrastructure development and improves connectivity to the TEN-T comprehensive and core networks. The investments cover mobile assets, interoperability and capacity- building.</p>	<ul style="list-style-type: none"> — The existence of a section on railway development within the transport plan or plans or framework or frameworks as set out above which complies with legal requirements for strategic environmental assessment (SEA) and sets out a realistic and mature project pipeline (including a timetable and budgetary framework); — Measures to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline.

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
	<ul style="list-style-type: none"> — Developing and improving environmentally-friendly (including low-noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility. <p>ERDF:</p> <ul style="list-style-type: none"> — Enhancing regional mobility by connecting secondary and tertiary nodes to TEN-T infrastructure, including multimodal nodes. 		
	<p>ERDF + Cohesion Fund:</p> <ul style="list-style-type: none"> — Supporting a multimodal Single European Transport Area by investing in the TEN-T. — Developing and rehabilitating comprehensive, high quality and interoperable railway systems, and promoting noise-reduction measures. — Developing and improving environmentally-friendly (including low-noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility. <p>ERDF:</p> <ul style="list-style-type: none"> — Enhancing regional mobility through connecting secondary and tertiary nodes to TEN-T infrastructure, including multimodal nodes. 	<p>7.3. Other modes of transport, including inland-waterways and maritime transport, ports, multimodal links and airport infrastructure: the existence within the comprehensive transport plan or plans or framework or frameworks of a specific section on inland-waterways and maritime transport, ports, multimodal links and airport infrastructure, which contribute to improving connectivity to the TEN-T comprehensive and core networks and to promoting sustainable regional and local mobility.</p>	<ul style="list-style-type: none"> — The existence of a section on inland-waterways and maritime transport, ports, multimodal links and airport infrastructure within the transport plan or plans or framework or frameworks which: <ul style="list-style-type: none"> — complies with legal requirements for strategic environmental assessment; — sets out a realistic and mature project pipeline (including a timetable and budgetary framework); — Measures to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline.
	<p>ERDF:</p> <ul style="list-style-type: none"> — Improving energy efficiency and security of supply through the development of smart energy distribution, storage and transmission systems and through the integration of distributed generation from renewable sources. 	<p>7.4 Development of smart energy distribution, storage and transmission systems.</p> <p>The existence of comprehensive plans for investments in smart energy infrastructure, and of regulatory measures, which contribute to improving energy efficiency and security of supply</p>	<ul style="list-style-type: none"> — Comprehensive plans describing the national energy infrastructure priorities are in place that are: <ul style="list-style-type: none"> — in accordance with Article 22 of Directive 2009/72/EC and of Directive 2009/73/EC, where applicable, and

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
			<ul style="list-style-type: none"> — consistent with the relevant regional investment plans under Article 12 and with the Union-wide ten-year network development plan in accordance with point (b) of Article 8(3) of Regulation (EC) No 714/2009 of the European Parliament and of the Council ⁽⁶⁾ and with Regulation (EC) No 715/2009 of the European Parliament and of the Council ⁽⁷⁾, and — compatible with Article 3(4) of Regulation (EU) No 347/2013 of the European Parliament and of the Council ⁽⁸⁾; — Those plans shall contain: <ul style="list-style-type: none"> — a realistic and mature project pipeline for projects for which support from the ERDF is envisaged; — measures to achieve the objectives of social and economic cohesion and environmental protection, in line with Article 3(10) of Directive 2009/72/EC and Article 3(7) of Directive 2009/73/EC; — measures to optimise the use of energy and promote energy efficiency, in line with Article 3(11) of Directive 2009/72/EC and Article 3(8) of Directive 2009/73/EC.
<p>8. Promoting sustainable and quality employment and supporting labour mobility</p> <p>(Employment target)</p> <p>(referred to in point (8) of the first paragraph of Article 9)</p>	<p>ESF:</p> <ul style="list-style-type: none"> — Access to employment for job-seekers and inactive people, including the long-term unemployed and people far from the labour market, also through local employment initiatives and support for labour mobility. 	<p>8.1. Active labour market policies are designed and delivered in the light of the Employment guidelines.</p>	<ul style="list-style-type: none"> — Employment services have the capacity to, and do, deliver: <ul style="list-style-type: none"> — personalised services and active and preventive labour market measures at an early stage, which are open to all jobseekers while focusing on people at highest risk of social exclusion, including people from marginalised communities;

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
			<ul style="list-style-type: none"> — comprehensive and transparent information on new job vacancies and employment opportunities taking into account the changing needs of the labour market. — Employment services have set up formal or informal cooperation arrangements with relevant stakeholders.
	<p>ESF:</p> <ul style="list-style-type: none"> — Self employment, entrepreneurship and business creation including innovative micro, small and medium-sized enterprises. <p>ERDF:</p> <ul style="list-style-type: none"> — Supporting the development of business incubators and investment support for self-employment, micro-enterprises and business creation. 	<p>8.2. Self-employment, entrepreneurship and business creation: the existence of a strategic policy framework for inclusive start-up.</p>	<ul style="list-style-type: none"> — A strategic policy framework for inclusive start-up support is in place with the following elements: <ul style="list-style-type: none"> — measures have been put in place with the objective of reducing the time and cost involved in setting up a business, taking account of the targets of the SBA; — measures have been put in place with the objective of reducing the time needed to get licenses and permits to take up and perform the specific activity of an enterprise, taking account of the targets of the SBA; — actions linking suitable business development services and financial services (access to capital), including reaching out to disadvantaged groups, areas, or both, where needed.
	<p>ESF:</p> <ul style="list-style-type: none"> — Modernisation of labour market institutions, such as public and private employment services, and improving the matching of labour market needs, including through actions that enhance transnational labour mobility as well as through mobility schemes and better cooperation between institutions and relevant stakeholders. <p>ERDF:</p> <ul style="list-style-type: none"> — Investing in infrastructure for employment services. 	<p>8.3. Labour market institutions are modernised and strengthened in the light of the Employment Guidelines;</p> <p>Reforms of labour market institutions will be preceded by a clear strategic policy framework and ex ante assessment including with regard to the gender dimension</p>	<ul style="list-style-type: none"> — Actions to reform employment services, aiming at providing them with the capacity to deliver: <ul style="list-style-type: none"> — personalised services and active and preventive labour market measures at an early stage, which are open to all jobseekers while focusing on people at highest risk of social exclusion, including people from marginalised communities; — comprehensive and transparent information on new job vacancies and employment opportunities taking into account the changing needs of the labour market.

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
			<ul style="list-style-type: none"> — Reform of employment services will include the creation of formal or informal cooperation networks with relevant stakeholders.
	<p>ESF:</p> <ul style="list-style-type: none"> — Active and healthy ageing. 	<p>8.4. Active and healthy ageing: Active ageing policies are designed in the light of the Employment Guidelines</p>	<ul style="list-style-type: none"> — Relevant stakeholders are involved in the design and follow-up of active ageing policies with a view to retaining elderly workers on the labour market and promoting their employment; — A Member State has measures in place to promote active ageing.
	<p>ESF:</p> <ul style="list-style-type: none"> — Adaptation of workers, enterprises and entrepreneurs to change. 	<p>8.5. Adaptation of workers, enterprises and entrepreneurs to change: The existence of policies aimed at favouring anticipation and good management of change and restructuring.</p>	<ul style="list-style-type: none"> — Instruments are in place to support social partners and public authorities to develop and monitor proactive approaches towards change and restructuring which include measures: <ul style="list-style-type: none"> — to promote anticipation of change; — to promote the preparation and management of the restructuring process.
	<p>ESF:</p> <ul style="list-style-type: none"> — Sustainable integration into the labour market of young people, in particular those not in employment, education or training, including young people at risk of social exclusion and young people from marginalised communities, including through the implementation of the Youth Guarantee. 	<p>8.6. The existence of a strategic policy framework for promoting youth employment including through the implementation of the Youth Guarantee.</p> <p>This ex ante conditionality applies only for implementation of the YEI</p>	<ul style="list-style-type: none"> — A strategic policy framework for promoting youth employment is in place that: <ul style="list-style-type: none"> — is based on evidence that measures the results for young people not in employment, education or training and that represents a base to develop targeted policies and monitor developments; — identifies the relevant public authority in charge of managing youth employment measures and coordinating partnerships across all levels and sectors; — involves stakeholders that are relevant for addressing youth unemployment; — allows early intervention and activation;

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
			<ul style="list-style-type: none"> — comprises supportive measures for access to employment, enhancing skills, labour mobility and sustainable integration of young people not in employment, education or training into the labour market.
<p>9. Promoting social inclusion, combating poverty and any discrimination</p> <p>(poverty target)</p> <p>(referred to in point (9) of the first paragraph of Article 9)</p>	<p>ESF:</p> <ul style="list-style-type: none"> — Active inclusion, including with a view to promoting equal opportunities and active participation, and improving employability. <p>ERDF:</p> <ul style="list-style-type: none"> — Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services. — Providing support for physical, economic and social regeneration of deprived communities in urban and rural areas. 	<p>9.1. The existence and the implementation of a national strategic policy framework for poverty reduction aiming at the active inclusion of people excluded from the labour market in the light of the Employment guidelines.</p>	<ul style="list-style-type: none"> — A national strategic policy framework for poverty reduction, aiming at active inclusion, is in place that: — provides a sufficient evidence base to develop policies for poverty reduction and monitor developments; — contains measures supporting the achievement of the national poverty and social exclusion target (as defined in the National Reform Programme), which includes the promotion of sustainable and quality employment opportunities for people at the highest risk of social exclusion, including people from marginalised communities; — involves relevant stakeholders in combating poverty; — depending on the identified needs, includes measures for the shift from institutional to community based care; — Upon request and where justified, relevant stakeholders will be provided with support for submitting project applications and for implementing and managing the selected projects.

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
	<p>ESF:</p> <ul style="list-style-type: none"> — Socio-economic integration of marginalised communities such as the Roma. <p>ERDF:</p> <ul style="list-style-type: none"> — Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services. — Providing support for physical, economic and social regeneration of deprived communities in urban and rural areas. — Investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure. 	<p>9.2. A national Roma inclusion strategic policy framework is in place</p>	<ul style="list-style-type: none"> — A national Roma inclusion strategic policy framework is in place that: <ul style="list-style-type: none"> — sets achievable national goals for Roma integration to bridge the gap with the general population. These targets should address the four EU Roma integration goals relating to access to education, employment, healthcare and housing; — identifies where relevant those disadvantaged micro-regions or segregated neighbourhoods, where communities are most deprived, using already available socio-economic and territorial indicators (i.e. very low educational level, long-term unemployment, etc); — includes strong monitoring methods to evaluate the impact of Roma integration actions and a review mechanism for the adaptation of the strategy; — is designed, implemented and monitored in close cooperation and continuous dialogue with Roma civil society, regional and local authorities. — Upon request and where justified, relevant stakeholders will be provided with support for submitting project applications and for implementing and managing the selected projects.
	<p>ESF:</p> <ul style="list-style-type: none"> — Enhancing access to affordable, sustainable and high-quality services, including health care and social services of general interest. 	<p>9.3. Health: The existence of a national or regional strategic policy framework for health within the limits of Article 168 TFEU ensuring economic sustainability.</p>	<ul style="list-style-type: none"> — A national or regional strategic policy framework for health is in place that contains: <ul style="list-style-type: none"> — coordinated measures to improve access to health services;

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
	<p>ERDF:</p> <ul style="list-style-type: none"> — Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services. 		<ul style="list-style-type: none"> — measures to stimulate efficiency in the health sector, through deployment of service delivery models and infrastructure; — a monitoring and review system. — A Member State or region has adopted a framework outlining available budgetary resources on an indicative basis and a cost-effective concentration of resources on prioritised needs for health care.
<p>10. Investing in education, training and vocational training for skills and lifelong learning</p> <p>(Education target)</p> <p>(referred to in point (10) of the first paragraph of Article 9)</p>	<p>ESF:</p> <ul style="list-style-type: none"> — Reducing and preventing early school-leaving and promoting equal access to good quality early-childhood, primary and secondary education, including formal, non-formal and informal learning pathways for reintegrating into education and training. <p>ERDF:</p> <ul style="list-style-type: none"> — Investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure. 	<p>10.1. Early school leaving: The existence of a strategic policy framework to reduce early school leaving (ESL) within the limits of Article 165 TFEU.</p>	<ul style="list-style-type: none"> — A system for collecting and analysing data and information on ESL at relevant levels is in place that: — provides a sufficient evidence-base to develop targeted policies and monitors developments. — A strategic policy framework on ESL is in place that: — is based on evidence; — covers relevant educational sectors including early childhood development, targets in particular vulnerable groups that are most at risk of ESL including people from marginalised communities, and addresses prevention, intervention and compensation measures; — involves all policy sectors and stakeholders that are relevant to addressing ESL.

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
	<p>ESF:</p> <ul style="list-style-type: none"> — Improving the quality and efficiency of, and access to, tertiary and equivalent education with a view to increasing participation and attainment levels, especially for disadvantaged groups. <p>ERDF:</p> <ul style="list-style-type: none"> — Investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure. 	<p>10.2. Higher education: the existence of a national or regional strategic policy framework for increasing tertiary education attainment, quality and efficiency within the limits of Article 165 TFEU.</p>	<ul style="list-style-type: none"> — A national or regional strategic policy framework for tertiary education is in place with the following elements: <ul style="list-style-type: none"> — where necessary, measures to increase participation and attainment that: <ul style="list-style-type: none"> — increase higher education participation among low income groups and other under-represented groups with special regard to disadvantaged people, including people from marginalised communities; — reduce drop-out rates/improve completion rates; — encourage innovative content and programme design; — measures to increase employability and entrepreneurship that: <ul style="list-style-type: none"> — encourage the development of "transversal skills", including entrepreneurship in relevant higher education programmes; — reduce gender differences in terms of academic and vocational choices.
	<p>ESF:</p> <ul style="list-style-type: none"> — Enhancing equal access to lifelong learning for all age groups in formal, non-formal and informal settings, upgrading the knowledge, skills and competences of the workforce, and promoting flexible learning pathways including through career guidance and validation of acquired competences. 	<p>10.3. Lifelong learning (LL): The existence of a national and/or regional strategic policy framework for lifelong learning within the limits of Article 165 TFEU.</p>	<ul style="list-style-type: none"> — A national or regional strategic policy framework for lifelong learning is in place that contains measures: <ul style="list-style-type: none"> — to support the developing and linking services for LL, including their implementation and skills upgrading (i.e. validation, guidance, education and training) and providing for the involvement of, and partnership with relevant stakeholders;

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
	<p>ERDF:</p> <ul style="list-style-type: none"> — Investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure. 		<ul style="list-style-type: none"> — for the provision of skills development for various target groups where these are identified as priorities in national or regional strategic policy frameworks (for example young people in vocational training, adults, parents returning to the labour market, low skilled and older workers, migrants and other disadvantaged groups, in particular people with disabilities); — to widen access to LL including through efforts to effectively implement transparency tools (for example the European Qualifications Framework, National Qualifications Framework, European Credit system for Vocational Education and Training, European Quality Assurance in Vocational Education and Training); — to improve the labour market relevance of education and training and to adapt it to the needs of identified target groups (for example young people in vocational training, adults, parents returning to the labour market, low-skilled and older workers, migrants and other disadvantaged groups, in particular people with disabilities).
	<p>ESF:</p> <ul style="list-style-type: none"> — Improving the labour market relevance of education and training systems, facilitating the transition from education to work, and strengthening vocational education and training (VET) systems and their quality, including through mechanisms for skills anticipation, adaptation of curricula and the establishment and development of work-based learning systems, including dual learning systems and apprenticeship schemes. 	<p>10.4. The existence of a national or regional strategic policy framework for increasing the quality and efficiency of VET systems within the limits of Article 165 TFEU.</p>	<ul style="list-style-type: none"> — A national or regional strategic policy framework is in place for increasing the quality and efficiency of VET systems within the limits of Article 165 TFEU which includes measures for the following:

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
	ERDF: — Investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure		— to improve the labour market relevance of VET systems in close cooperation with relevant stakeholders including through mechanisms for skills anticipation, adaptation of curricula and the strengthening of work-based learning provision in its different forms; — to increase the quality and attractiveness of VET including through establishing a national approach for quality assurance for VET (for example in line with the European Quality Assurance Reference Framework for Vocational Education and Training) and implementing the transparency and recognition tools, for example European Credit system for Vocational Education and Training (ECVET).
11. Enhancing institutional capacity of public authorities and stakeholders and efficient public administration (referred to in point (11) of the first paragraph of Article 9)	ESF: — Investment in institutional capacity and in the efficiency of public administrations and public services at the national, regional and local levels with a view to reforms, better regulation and good governance. ERDF: — Enhancing institutional capacity of public authorities and stakeholders and efficient public administration through actions to strengthen the institutional capacity and the efficiency of public administrations and public services related to the implementation of the ERDF, and in support of actions under the ESF to strengthen the institutional capacity and the efficiency of public administration.	— The existence of a strategic policy framework for reinforcing the Member States' administrative efficiency including public administration reform	— A strategic policy framework for reinforcing a Member State's public authorities' administrative efficiency and their skills with the following elements are in place and in the process of being implemented: — an analysis and strategic planning of legal, organisational and/or procedural reform actions; — the development of quality management systems; — integrated actions for simplification and rationalisation of administrative procedures; — the development and implementation of human resources strategies and policies covering the main gaps identified in this field; — the development of skills at all levels of the professional hierarchy within public authorities;

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
	Cohesion Fund: — Enhancing institutional capacity of public authorities and stakeholders and efficient public administration through actions to strengthen the institutional capacity and the efficiency of public administrations and public services related to the implementation of the Cohesion Fund.		— the development of procedures and tools for monitoring and evaluation.

- (¹) Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).
- (²) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).
- (³) Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC (OJ L 114, 27.4.2006, p. 64).
- (⁴) Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).
- (⁵) Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).
- (⁶) Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (OJ L 211, 14.8.2009, p. 15).
- (⁷) Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36).
- (⁸) Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39).

PART II: General ex ante conditionalities

Area	Ex ante conditionality	Criteria for fulfilment
1. Anti-discrimination	The existence of administrative capacity for the implementation and application of Union anti-discrimination law and policy in the field of ESI Funds	— Arrangements in accordance with the institutional and legal framework of Member States for the involvement of bodies responsible for the promotion of equal treatment of all persons throughout the preparation and implementation of programmes, including the provision of advice on equality in ESI fund-related activities; — Arrangements for training for staff of the authorities involved in the management and control of the ESI Funds in the fields of Union anti-discrimination law and policy.
2. Gender	The existence of administrative capacity for the implementation and application of Union gender equality law and policy in the field of ESI Funds	— Arrangements in accordance with the institutional and legal framework of Member States for the involvement of bodies responsible for gender equality throughout the preparation and implementation of programmes, including the provision of advice on gender equality in ESI Fund-related activities; — Arrangements for training for staff of the authorities involved in the management and control of the ESI Funds in the fields of Union gender equality law and policy as well as on gender mainstreaming.

Area	Ex ante conditionality	Criteria for fulfilment
3. Disability	The existence of administrative capacity for the implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in the field of ESI Funds in accordance with Council Decision 2010/48/EC ⁽¹⁾	<ul style="list-style-type: none"> — Arrangements in accordance with the institutional and legal framework of Member States for the consultation and involvement of bodies in charge of protection of rights of persons with disabilities or representative organisations of persons with disabilities and other relevant stakeholders throughout the preparation and implementation of programmes; — Arrangements for training for staff of the authorities involved in the management and control of the ESI Funds in the fields of applicable Union and national disability law and policy, including accessibility and the practical application of the UNCRPD as reflected in Union and national legislation, as appropriate; — Arrangements to ensure monitoring of the implementation of Article 9 of the UNCRPD in relation to the ESI Funds throughout the preparation and the implementation of the programmes.
4. Public procurement	The existence of arrangements for the effective application of Union public procurement law in the field of the ESI Funds.	<ul style="list-style-type: none"> — Arrangements for the effective application of Union public procurement rules through appropriate mechanisms; — Arrangements which ensure transparent contract award procedures; — Arrangements for training and dissemination of information for staff involved in the implementation of the ESI funds; — Arrangements to ensure administrative capacity for implementation and application of Union public procurement rules.
5. State aid	The existence of arrangements for the effective application of Union State aid rules in the field of the ESI Funds.	<ul style="list-style-type: none"> — Arrangements for the effective application of Union State aid rules; — Arrangements for training and dissemination of information for staff involved in the implementation of the ESI funds; — Arrangements to ensure administrative capacity for implementation and application of Union State aid rules.
6. Environmental legislation relating to Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA)	The existence of arrangements for the effective application of Union environmental legislation related to EIA and SEA.	<ul style="list-style-type: none"> — Arrangements for the effective application of Directive 2011/92/EU of the European Parliament and of the Council ⁽²⁾ (EIA) and of Directive 2001/42/EC of the European Parliament and of the Council ⁽³⁾ (SEA); — Arrangements for training and dissemination of information for staff involved in the implementation of the EIA and SEA Directives; — Arrangements to ensure sufficient administrative capacity.

Area	Ex ante conditionality	Criteria for fulfilment
7. Statistical systems and result indicators	<p>The existence of a statistical basis necessary to undertake evaluations to assess the effectiveness and impact of the programmes.</p> <p>The existence of a system of result indicators necessary to select actions, which most effectively contribute to desired results, to monitor progress towards results and to undertake impact evaluation.</p>	<ul style="list-style-type: none"> — Arrangements for timely collection and aggregation of statistical data with the following elements are in place: <ul style="list-style-type: none"> — the identification of sources and mechanisms to ensure statistical validation; — arrangements for publication and public availability of aggregated data; — An effective system of result indicators including: <ul style="list-style-type: none"> — the selection of result indicators for each programme providing information on what motivates the selection of policy actions financed by the programme; — the establishment of targets for these indicators; — the consistency of each indicator with the following requisites: robustness and statistical validation, clarity of normative interpretation, responsiveness to policy, timely collection of data; — Procedures in place to ensure that all operations financed by the programme adopt an effective system of indicators.

(¹) Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities, (OJ L 23, 27.1.2010, p. 35)

(²) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

(³) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

ANNEX XII

INFORMATION AND COMMUNICATION ON SUPPORT FROM THE FUNDS

1. LIST OF OPERATIONS

The list of operations referred to in Article 115(2) shall contain, in at least one of the official languages of the Member State, the following data fields:

- beneficiary name (only of legal entities; no natural persons shall be named);
- operation name;
- operation summary;
- operation start date;
- operation end date (expected date for physical completion or full implementation of the operation);
- total eligible expenditure allocated to the operation;
- Union co-financing rate, as per priority axis;
- operation postcode; or other appropriate location indicator;
- country;
- name of category of intervention for the operation in accordance with point (b) (vi) of the first subparagraph of Article 96(2);
- date of last update of the list of operations.

The headings of the data fields shall be also provided in at least one other official language of the Union.

2. INFORMATION AND COMMUNICATION MEASURES FOR THE PUBLIC

The Member State, the managing authority and the beneficiaries shall take the steps necessary to provide information to, and communicate with, the public on operations supported by an operational programme in accordance with this Regulation.

2.1. Responsibilities of the Member State and the managing authority

1. The Member State and the managing authority shall ensure that the information and communication measures are implemented in accordance with the communication strategy and that those measures aim for the widest possible media coverage using various forms and methods of communication at the appropriate level.
2. The Member State or the managing authority shall be responsible for at least the following information and communication measures:
 - (a) organising a major information activity publicising the launch of the operational programme or programmes, even prior to the approval of the relevant communication strategies;
 - (b) organising one major information activity a year which promotes the funding opportunities and the strategies pursued and presents the achievements of the operational programme or programmes, including, where relevant, major projects, joint action plans and other project examples;
 - (c) displaying the Union emblem at the premises of each managing authority;

- (d) publishing electronically the list of operations in accordance with Section 1 of this Annex;
 - (e) giving examples of operations, by operational programme, on the single website or on the operational programme's website that is accessible through the single website portal; the examples should be in a widely spoken official language of the Union other than the official language or languages of the Member State concerned;
 - (f) updating information about the operational programme's implementation, including, when appropriate, its main achievements, on the single website or on the operational programme's website that is accessible through the single website portal.
3. The managing authority shall involve in information and communication measures, in accordance with national laws and practices, the following bodies where appropriate:
- (a) the partners referred to in Article 5;
 - (b) information centres on Europe, as well as Commission representation offices, and information offices of the European Parliament in the Member States;
 - (c) educational and research institutions.

These bodies shall widely disseminate the information described in Article 115(1).

2.2. Responsibilities of the beneficiaries

1. All information and communication measures provided by the beneficiary shall acknowledge support from the Funds to the operation by displaying:
- (a) the Union emblem in accordance with the technical characteristics laid down in the implementing act adopted by the Commission under Article 115(4), together with a reference to the Union;
 - (b) a reference to the Fund or Funds supporting the operation.
- Where an information or communication measure relates to an operation or to several operations co-financed by more than one Fund, the reference provided for in point (b) may be replaced by a reference to the ESI Funds.
2. During implementation of an operation, the beneficiary shall inform the public about the support obtained from the Funds by:
- (a) providing on the beneficiary's website, where such a website exists, a short description of the operation, proportionate to the level of support, including its aims and results, and highlighting the financial support from the Union;
 - (b) placing, for operations not falling under points 4 and 5, at least one poster with information about the project (minimum size A3), including the financial support from the Union, at a location readily visible to the public, such as the entrance area of a building.
3. For operations supported by the ESF, and in appropriate cases for operations supported by the ERDF or Cohesion Fund, the beneficiary shall ensure that those taking part in an operation have been informed of this funding.

Any document, relating to the implementation of an operation which is used for the public or for participants, including any attendance or other certificate, shall include a statement to the effect that the operational programme was supported by the Fund or Funds.

4. During implementation of an ERDF or Cohesion Fund operation, the beneficiary shall put up, at a location readily visible to the public, a temporary billboard of a significant size for each operation consisting of the financing of infrastructure or construction operations for which the total public support to the operation exceeds EUR 500 000.

5. No later than three months after completion of an operation, the beneficiary shall put up a permanent plaque or billboard of significant size at a location readily visible to the public for each operation that fulfils the following criteria:

- (a) the total public support to the operation exceeds EUR 500 000;
- (b) the operation consists of the purchase of a physical object or of the financing of infrastructure or of construction operations.

The plaque or billboard shall state the name and the main objective of the operation. It shall be prepared in accordance with the technical characteristics adopted by the Commission in accordance with Article 115(4).

3. INFORMATION MEASURES FOR POTENTIAL BENEFICIARIES AND BENEFICIARIES

3.1. Information measures for potential beneficiaries

1. The managing authority shall ensure, in accordance with the communication strategy, that the operational programme's strategy and objectives, and the funding opportunities offered through joint support from the Union and the Member State, are disseminated widely to potential beneficiaries and all interested parties, with details of the financial support from the Funds concerned.
2. The managing authority shall ensure that potential beneficiaries have access to the relevant information, including updated information where necessary, and taking into account the accessibility of electronic or other communication services for certain potential beneficiaries, on at least the following:
 - (a) the funding opportunities and the launching of application calls;
 - (b) the eligibility of expenditure conditions to be met in order to qualify for support under an operational programme;
 - (c) a description of the procedures for examining applications for funding and of the time periods involved;
 - (d) the criteria for selecting the operations to be supported;
 - (e) the contacts at national, regional or local level that are able to provide information on the operational programmes;
 - (f) the responsibility of potential beneficiaries to inform the public about the aim of the operation and the support from the Funds to the operation in accordance with point 2.2. The managing authority may request potential beneficiaries to propose indicative communication activities, proportional to the size of the operation, in the applications.

3.2. Information measures for beneficiaries

1. The managing authority shall inform beneficiaries that acceptance of funding constitutes an acceptance of their inclusion in the list of operations published in accordance with Article 115(2).
2. The managing authority shall provide information and communication tools, including templates in electronic format, to help beneficiaries to meet their obligations set out in point 2.2, where appropriate.

4. ELEMENTS OF THE COMMUNICATION STRATEGY

The communication strategy drawn up by the managing authority and, where appropriate, by the Member State shall include the following elements:

- (a) a description of the approach taken, including the main information and communication measures to be taken by the Member State or the managing authority and aimed at potential beneficiaries, beneficiaries, multipliers and the wider public, having regard to the aims described in Article 115;
- (b) a description of materials that will be made available in formats accessible for people with disabilities;
- (c) a description of how beneficiaries will be supported in their communication activities;
- (d) the indicative budget for implementation of the strategy;

- (e) a description of the administrative bodies, including the staff resources, responsible for implementing the information and communication measures;
 - (f) the arrangements for the information and communication measures referred to in point 2, including the website or website portal at which such data may be found;
 - (g) an indication of how the information and communication measures shall be assessed in terms of visibility and awareness of policy, operational programmes and operations, and of the role played by the Funds and the Union;
 - (h) where appropriate, a description of the use of the main results of the previous operational programme;
 - (i) an annual update setting out the information and communication activities to be carried out in the following year.
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ANNEX XIII

DESIGNATION CRITERIA FOR THE MANAGING AUTHORITY AND THE CERTIFYING AUTHORITY

1. INTERNAL CONTROL ENVIRONMENT

- (i) Existence of an organisational structure covering the functions of managing and certifying authorities and the allocation of functions within each of those authorities, ensuring that the principle of separation of functions, where appropriate, is respected.
- (ii) Framework for ensuring, in the event of delegation of tasks to intermediate bodies, the definition of their respective responsibilities and obligations, the verification of their capacities to carry out delegated tasks and the existence of reporting procedures.
- (iii) Reporting and monitoring procedures for irregularities and for the recovery of amounts unduly paid.
- (iv) Plan for allocation of appropriate human resources with necessary technical skills, at different levels and for different functions in the organisation.

2. RISK MANAGEMENT

Taking into account the principle of proportionality, a framework for ensuring that an appropriate risk management exercise is conducted when necessary, and in particular, in the event of major modifications to the activities.

3. MANAGEMENT AND CONTROL ACTIVITIES

A. Managing authority

- (i) Procedures regarding grant applications, appraisal of applications, selection for funding, including instructions and guidance ensuring the contribution of operations, in accordance with point (a)(i) of Article 125(3), to achieving the specific objectives and results of the relevant priority.
- (ii) Procedures for management verifications including administrative verifications in respect of each application for reimbursement by beneficiaries and the on-the-spot verifications of operations.
- (iii) Procedures for treatment of applications for reimbursement by beneficiaries and authorisation of payments.
- (iv) Procedures for a system to collect, record and store in computerised form data on each operation, including, where appropriate, data on individual participants and a breakdown of data on indicators by gender where required, and to ensure that systems security is in line with internationally accepted standards.
- (v) Procedures established by the managing authority to ensure that beneficiaries maintain either a separate accounting system or an adequate accounting code for all transactions relating to an operation.
- (vi) Procedures for putting in place effective and proportionate anti-fraud measures.
- (vii) Procedures to ensure an adequate audit trail and archiving system.
- (viii) Procedures to draw up the management declaration of assurance, report on the controls carried out and weaknesses identified, and the annual summary of final audits and controls.
- (ix) Procedures to ensure the provision to the beneficiary of a document setting out the conditions for support for each operation.

B. Certifying authority

- (i) Procedures for certifying interim payment applications to the Commission.
- (ii) Procedures for drawing up the accounts and certifying that they are true, complete and accurate and that the expenditure complies with applicable law taking into account the results of all audits.
- (iii) Procedures for ensuring an adequate audit trail by maintaining accounting records including amounts recoverable, recovered and withdrawn for each operation, in computerised form.
- (iv) Procedures, where appropriate, to ensure that the certifying authority receives adequate information from the managing authority on the verifications carried out, and the results of the audits carried out by or under the responsibility of the audit authority.

4. MONITORING

A. Managing authority

- (i) Procedures to support the work of the monitoring committee.
- (ii) Procedures to draw up and submit to the Commission annual and final implementation reports.

B. Certifying authority

Procedures on the fulfilment of the responsibilities of the certifying authority for monitoring the results of the management verifications and the results of the audits carried out by or under the responsibility of the audit authority before submitting payment applications to the Commission.

ANNEX XIV

CORRELATION TABLE

Regulation (EC) No 1083/2006	This Regulation
Article 1	Article 1
Article 2	Article 2
Articles 3 and 4	Article 89
Articles 5, 6 and 8	Article 90
Article 7	—
Article 9	Articles 4 and 6
Article 10	Article 4(1)
Article 11	Article 5
Article 12	Article 4(4)
Article 13	Article 4(5)
Article 14	Articles 4(7) and (8) and 73
Article 15	Article 95
Article 16	Article 7
Article 17	Article 8
Article 18	Article 91
Articles 19 to 21	Article 92
Article 22	Articles 93 and 94
Article 23	Article 92(6)
Article 24	Article 91(3)
Article 25	Articles 10 and 11
Article 26	Article 12
Article 27	Article 15
Article 28	Articles 14 and 16
Article 29	Article 52
Article 30	Article 53
Article 31	Article 113
Article 32	Articles 26, 29 and 96(9) and (10)
Article 33	Articles 30 and 96(11)
Article 34	Article 98
Article 35	Article 99
Article 36	Article 31
Article 37	Articles 27 and 96(1) to (8)
Article 38	—

Regulation (EC) No 1083/2006	This Regulation
Article 39	Article 100
Article 40	Article 101
Article 41	Articles 102 and 103
Article 42	Article 123(7)
Article 43	—
Article 43a	Article 67
Article 43b	Article 67
Article 44	Articles 37 to 46
Article 45	Articles 58 and 118
Article 46	Articles 59 and 119
Article 47	Article 54
Article 48	Articles 55, 56(1) to (3), 57 and 114(1) and (2)
Article 49	Articles 56(4), 57 and 114(3)
Article 50	Articles 20 to 22
Article 51	—
Article 52	Article 121
Articles 53 and 54	Articles 60 and 120
Article 55	Article 61
Article 56	Articles 65 to 70
Article 57	Article 71
Article 58	Article 73
Article 59	Article 123
Article 60	Article 125
Article 61	Article 126
Article 62	Article 127
Article 63	Article 47
Article 64	Article 48
Article 65	Article 110
Article 66	Article 49
Article 67	Articles 50 and 111
Article 68	Articles 51 and 112
Article 69	Articles 115 to 117
Article 70	Articles 74 and 122
Article 71	Article 124
Article 72	Article 75

Regulation (EC) No 1083/2006	This Regulation
Article 73	Article 128
Article 74	Article 148
Article 75	Article 76
Article 76	Articles 77 and 129
Article 77	Articles 78 and 130
Articles 78 and 78a	Article 131
Article 79	—
Article 80	Article 132
Article 81	Articles 80 and 133
Article 82	Articles 81 and 134
Article 83	—
Article 84	Article 82
Articles 85 to 87	Article 135
Article 88	—
Article 89	Article 141
Article 90	Article 140
Article 91	Article 83
Article 92	Article 142
Article 93	Articles 86 and 136
Article 94	—
Article 95	—
Article 96	Article 87
Article 97	Article 88
Article 98	Article 143
Article 99	Articles 85 and 144
Article 100	Article 145
Article 101	Article 146
Article 102	Article 147
Articles 103 and 104	Article 150
Article 105	Article 152
Article 105a	—
Article 106	Article 151
Article 107	Article 153
Article 108	Article 154

Joint Statement by the Council and the Commission on Article 67

The Council and the Commission agree that Article 67 (4) which excludes the application of simplified costs set out in Article 67 (1) (b)-(d) in cases where an operation or a project forming part of an operation is implemented exclusively through public procurement procedures does not preclude the implementation of an operation through public procurement procedures which result in payments by the beneficiary to the contractor based on pre-defined unit costs. The Council and the Commission agree that the costs determined and paid by the beneficiary based on these unit costs established through public procurement procedures shall constitute real costs actually incurred and paid by the beneficiary under Article 67 (1) (a).

Joint Statement by the European Parliament, the Council and the Commission on the revision of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council linked with the reconstitution of appropriations

The European Parliament, the Council and the Commission agree to include in the revision of the Financial Regulation, aligning Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council to the Multiannual Financial Framework 2014-20, provisions necessary for the application of the arrangements for the allocation of the performance reserve and in relation to the implementation of financial instruments under Article 39 (SME initiative) under the Regulation laying down common provisions for the European Structural and Investment Funds concerning the reconstitution of:

- i. appropriations which had been committed to programmes in relation to the performance reserve and which had to be decommitted as a result of priorities under these programmes not having attained their milestones and;
 - ii. appropriations which had been committed in relation to dedicated programmes referred to under Article 39(4)b and which had to be de-committed because the participation of a Member State in the financial instrument had to be discontinued.
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Joint Statement by the European Parliament, the Council and the Commission on Article 1

If further justified derogations to the common rules are needed to take into account specificities of the EMFF and of the EAFRD, the European Parliament, the Council and the European Commission commit to allow for these derogations by proceeding with due diligence to the necessary modifications to Regulation laying down common provisions for the European Structural and Investment Funds.

Joint Statement by the European Parliament and the Council on the exclusion of any retroactivity with regard to the application of article 5(3)

The European Parliament and the Council agree that:

- concerning the application of Articles 14(2), 15(1)(c), and 26 (2) of Regulation laying down common provisions for the European Structural and Investment Funds, the actions taken by the Member States to involve the partners referred to in Article 5(1) in the preparation of the Partnership Agreement and the programmes referred to in Article 5 (2) include all actions taken on a practical level by the Member States irrespective of their timing as well as actions taken by them before the entry into force of that and before the day of the entry into force of the delegated act for a European code of conduct adopted in accordance with Article 5(3) of the same Regulation, during the preparatory phases of a Member State programming procedure, provided that the objectives of the partnership principle, laid down in that Regulation, are achieved. In this context, Member States, in accordance with their national and regional competences, will decide on the content of both, the proposed Partnership Agreement and proposed draft programmes, in accordance with the relevant provisions of that Regulation and the fund specific rules;
 - the delegated act laying down a European code of conduct, adopted in accordance with Article 5(3), will under no circumstances and neither directly nor indirectly have any retroactive effect, especially concerning the approval procedure of the Partnership Agreement and the programmes, since it is not the intention of the EU legislature to confer any powers on the Commission to the effect that it could reject the approval of the Partnership Agreement and programmes solely and exclusively based on any kind of non-compliance with the European code of conduct, adopted in accordance with Article 5(3);
 - the European Parliament and the Council invite the Commission to make available for them the draft text of the delegated act to be adopted under article 5(3) as early as possible, but not later than the date when the political agreement on the Regulation laying down common provisions for the European Structural and Investment Funds is adopted by the Council or the date when the draft report on that Regulation is voted at the plenary of the European Parliament, whichever date is the earliest.
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REGULATION (EU) No 1304/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013
on the European Social Fund and repealing Council Regulation (EC) No 1081/2006

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 164 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 opinions of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽³⁾ establishes the framework for action by the European Social Fund (ESF), the European Regional Development Fund (ERDF), the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and lays down, in particular, the thematic objectives, the principles and the rules concerning programming, monitoring and evaluation, management and control. It is therefore necessary to specify the mission and scope of the ESF, together with the related investment priorities addressing the thematic objectives, and to lay down specific provisions concerning the type of activities that may be financed by the ESF.

(2) The ESF should improve employment opportunities, strengthen social inclusion, fight poverty, promote

education, skills and life-long learning and develop active, comprehensive and sustainable inclusion policies in accordance with the tasks entrusted to the ESF by Article 162 of the Treaty on the Functioning of the European Union (TFEU), and thereby contribute to economic, social and territorial cohesion in accordance with Article 174 TFEU. In accordance with Article 9 TFEU, the ESF should take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

(3) The European Council of 17 June 2010 called for all common policies, including cohesion policy, to support the Europe 2020 Strategy for smart, sustainable and inclusive growth (the 'Europe 2020 strategy'). In order to ensure the full alignment of the ESF with the objectives of this strategy, particularly as regards employment, education, training and the fight against social exclusion, poverty and discrimination, the ESF should support Member States, taking account of the relevant Integrated Guidelines and relevant country-specific recommendations adopted in accordance with Article 121(2) and Article 148(4) TFEU and, where appropriate, at national level, the national reform programmes underpinned by national employment strategies, national social reports, national Roma integration strategies and national disability strategies. The ESF should also contribute to relevant aspects of the implementation of the flagship initiatives, in particular the "Agenda for New Skills and Jobs", the "Youth on the Move", and the "European Platform against Poverty and Social Exclusion". It should also support relevant activities in the initiatives on the "Digital Agenda" and "Innovation Union".

(4) The Union is confronted with structural challenges arising from economic globalisation, technological change and an increasingly ageing workforce and growing skills and labour shortages in some sectors and regions. They have been compounded by the recent economic and financial crisis, which has resulted in increased levels of unemployment, hitting in particular young people and other disadvantaged people, such as migrants and minorities.

(5) The ESF should aim to promote employment, improve access to the labour market, paying particular attention to those who are furthest from the labour market and support voluntary labour mobility. The ESF should also support active and healthy ageing, including through innovative forms of work organisation, promoting

⁽¹⁾ OJ C 143, 22.5.2012, p. 82 and OJ C 271, 19.9.2013, p. 101.

⁽²⁾ OJ C 225, 27.7.2012, p. 127.

⁽³⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

- health and safety at work and increasing employability. In promoting the better functioning of labour markets by enhancing the transnational geographical mobility of workers, the ESF should, in particular, support EURES activities (activities of the European network of employment services) in relation to recruitment and related information, advice and guidance services at national and cross-border level. Operations financed by the ESF should comply with Article 5(2) of the Charter of Fundamental Rights of the European Union which provides that no one shall be required to perform forced or compulsory labour.
- (6) The ESF should also promote social inclusion and prevent and combat poverty with a view to breaking the cycle of disadvantage across generations which implies mobilising a range of policies targeting the most disadvantaged people regardless of their age including children, the working poor and older women. Attention should be paid to the participation of those seeking asylum and refugees. The ESF may be used to enhance access to affordable, sustainable and high quality services of general interest, in particular in the fields of health care, employment and training services, services for the homeless, out of school care, childcare and long-term care services. Services supported can be public, private and/or community-based, and delivered by different types of providers, namely public administrations, private companies, social enterprises, non-governmental organisations.
- (7) The ESF should undertake to tackle early school leaving, promote equal access to good quality education, invest in vocational education and training, improve the labour market relevance of education and training systems and enhance life-long learning, including formal, non-formal and informal learning pathways.
- (8) In addition to these priorities, in the less developed regions and Member States, and with a view to increasing economic growth and employment opportunities, the efficiency of public administration at national and regional level, as well as the ability of a public administration to act in a participative manner, should be improved. The institutional capacity of stakeholders, including non-governmental organisations, delivering employment, education, training and social policies, including in the field of anti-discrimination, should be strengthened.
- (9) Support under the investment priority "community-led local development" may contribute to all thematic objectives as set out in this Regulation. Community-led local development strategies supported by the ESF should be inclusive with regard to disadvantaged people present on the territory, both in terms of governance of local action groups and in terms of content of the strategy.
- (10) At the same time, it is crucial to support the development and competitiveness of micro, small and medium-sized enterprises of the Union and to ensure that people can adapt, through acquiring appropriate skills and through lifelong learning opportunities, to new challenges such as the shift to a knowledge-based economy, the digital agenda, and the transition to a low-carbon and more energy-efficient economy. By pursuing its primary thematic objectives, the ESF should contribute to addressing these challenges. In this context, the ESF should support the labour force transition from education to employment, towards greener skills and jobs, and should address skills shortages, including those in the energy-efficiency, renewable energy and sustainable transport sectors. The ESF should also contribute to cultural and creative skills. Socio-cultural, creative and cultural sectors are important in indirectly addressing the aims of the ESF; their potential should therefore be better integrated into ESF projects and programming.
- (11) In light of the persistent need to make an effort to address youth unemployment in the Union as a whole, a Youth Employment Initiative (YEI) should be created for the most affected regions. The YEI should support, in such regions, young persons not in employment, education or training (NEET), who are unemployed or inactive, thereby reinforcing and accelerating the delivery of activities supported by ESF funding. Additional funds should be specifically attributed to the YEI and should be matched with funding from the ESF in the most affected regions. By targeting individual persons rather than structures, the YEI should aim to complement other ESF-funded operations and national actions targeting NEET, including through the implementation of the Youth Guarantee in line with the Council's Recommendation of 22 April 2013 on Establishing a Youth Guarantee⁽¹⁾, which provides that young persons should receive a good-quality offer of either employment, continued education, an apprenticeship or a traineeship within a period of four months of becoming unemployed or of leaving formal education. The YEI may also support actions to combat early school leaving. Access to welfare benefits for the young person and his/her family or dependants should not be conditional upon the young person's participation in the YEI.

⁽¹⁾ OJ C 120, 26.4.2013, p. 1.

- (12) The YEI should be fully integrated into ESF programming but, where appropriate, specific provisions related to YEI should be envisaged with a view to achieving its objectives. It is necessary to simplify and facilitate implementation of the YEI, in particular with regard to financial management provisions and thematic concentration arrangements. In order to ensure that the results of the YEI are clearly demonstrated and communicated, specific monitoring and evaluation, as well as information and publicity arrangements should be envisaged. Youth organisations should be involved in the monitoring committees' discussions on the preparation and implementation, including evaluation, of the YEI.
- (13) The ESF should contribute to the Europe 2020 strategy, ensuring a greater concentration of support on the priorities of the Union. A minimum share of cohesion policy funding for the ESF is established in accordance with Article 92(4) of Regulation (EU) No 1303/2013. The ESF should in particular increase its support for the fight against social exclusion and poverty, through a minimum ring-fenced allocation of 20 % of the total ESF resources of each Member State. The choice and number of investment priorities for ESF support should also be limited, in accordance with the level of development of the supported regions.
- (14) In order to ensure closer monitoring and improved assessment of the results achieved at the Union level by actions supported by the ESF, a common set of output and result indicators should be established in this Regulation. Such indicators should correspond to the investment priority and type of action supported in accordance with this Regulation as well as the relevant provisions of Regulation (EU) No 1303/2013. The indicators should be complemented where necessary by programme-specific result and/or output indicators.
- (15) Member States are encouraged to report on the effect of ESF investments on equal opportunities, equal access and integration of marginalised groups in all operational programmes.
- (16) Taking into account data protection requirements linked to collecting and storing sensitive data on participants, the Member States and the Commission should regularly evaluate the effectiveness, efficiency and impact of ESF support in promoting social inclusion and combating poverty, in particular with regard to disadvantaged people such as the Roma. Member States are encouraged to report on ESF-funded initiatives in the national social reports annexed to their national reform programmes, in particular as regards marginalised communities, such as the Roma and migrants.
- (17) Efficient and effective implementation of actions supported by the ESF depends on good governance and partnership between all relevant territorial and socio-economic actors, taking into account the actors at regional and local levels, in particular the umbrella associations representing local and regional authorities, organised civil society, economic and, in particular, social partners and non-governmental organisations. Member States should therefore ensure the participation of social partners and non-governmental organisations in the strategic governance of the ESF, from shaping priorities for operational programmes to implementing and evaluating ESF results.
- (18) The Member States and the Commission should ensure that the implementation of the priorities financed by the ESF contributes to the promotion of equality between women and men in accordance with Article 8 TFEU. Evaluations have shown the importance of taking the gender equality objectives aspect into account in all dimensions and in all stages of the preparation, monitoring, implementation and evaluation of operational programmes, in a timely and consistent manner while ensuring that specific actions are taken to promote gender equality, the economic independence of women, education and skills upgrading and the reintegration of female victims of violence into the labour market and into society.
- (19) In accordance with Article 10 TFEU, the implementation of the priorities financed by the ESF should contribute to combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation by paying particular attention to those facing multiple discrimination. Discrimination on the ground of sex should be interpreted in a broad sense so as to cover other gender-related aspects in line with the case law of the Court of Justice of the European Union. The implementation of the priorities financed by the ESF should also contribute to promoting equal opportunities. The ESF should support the fulfilment of the Union's obligation under the UN Convention on the Rights of Persons with Disabilities with regard inter alia to education, work, employment and accessibility. The ESF should also promote the transition from institutional to community-based care. The ESF should not support any action that contributes to segregation or to social exclusion.
- (20) Support for social innovation contributes to making policies more responsive to social change. The ESF should encourage and support innovative social enterprises and entrepreneurs as well as innovative projects taken on by non-governmental organisations and other actors within the social economy. In particular, testing and evaluating innovative solutions before scaling them

- up is instrumental in improving the efficiency of policies and thus justifies specific support from the ESF. Innovative solutions could include, provided they prove to be effective, the development of social metrics such as, for example, social labelling.
- (21) Transnational cooperation has significant added value and should therefore be supported by all Member States with the exception of duly justified cases taking account of the principle of proportionality. It is also necessary to reinforce the Commission's role in facilitating exchanges of experience and coordinating implementation of relevant initiatives.
- (22) With a view to fostering an integrated and holistic approach in terms of employment and social inclusion, the ESF should support cross-sectoral and territorial-based partnerships.
- (23) The mobilisation of regional and local stakeholders should help to deliver the Europe 2020 strategy and its headline targets. Territorial pacts, local initiatives for employment and social inclusion, sustainable and inclusive community-led local development strategies in urban and rural areas and sustainable urban development strategies may be used and supported to involve more actively regional and local authorities, cities, social partners and non-governmental organisations throughout the preparation and implementation of operational programmes.
- (24) Regulation (EU) No 1303/2013 provides that rules on eligibility of expenditure are to be established at the national level, with certain exceptions for which it is necessary to lay down specific provisions with regard to the ESF.
- (25) With a view to simplifying the use of the ESF and reducing the risk of error, and with regard to the specificities of the operations supported by the ESF, it is appropriate to lay down provisions which complement Regulation (EU) No 1303/2013 as regards eligibility of expenditure.
- (26) The use of standard scales of unit costs, lump sums and flat-rate financing should lead to simplification for the beneficiary and should lower the administrative burden for all ESF project partners.
- (27) It is important to ensure the sound financial management of each operational programme and its implementation in the most effective and user-friendly manner possible. Member States should refrain from adding rules that complicate the use of funds for the beneficiary.
- (28) The Member States and the regions should be encouraged to leverage the ESF through financial instruments in order to support, for example, students, job creation, the mobility of workers, social inclusion and social entrepreneurship.
- (29) The ESF should complement other Union programmes and close synergies should be developed between the ESF and other Union financial instruments.
- (30) Investment in human capital is the main force on which the Union can rely to ensure its international competitiveness and the sustainable recovery of its economy. No type of investment can produce structural reforms unless it is accompanied by a coherent, growth-oriented human capital development strategy. It is therefore necessary to ensure that in the 2014-2020 programming period the resources intended to improve skills and raise employment levels allow action to be taken on an adequate scale.
- (31) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission for establishing the definition of standard scales of unit costs and lump sums and their maximum amounts according to different types of operations. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (32) The Commission should be assisted in the administration of the ESF by the Committee provided for in Article 163 TFEU.
- (33) Since this Regulation replaces Regulation (EC) No 1081/2006 of the European Parliament and of the Council⁽¹⁾, that Regulation should be repealed. Nevertheless, this Regulation should not affect either the continuation or modification of assistance approved by the Commission on the basis of Regulation (EC) No 1081/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation should consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure. Applications to receive assistance made or approved under Regulation (EC) No 1081/2006 should remain valid,
- ⁽¹⁾ Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999 (OJ L 210, 31.7.2006, p. 12).

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes the missions of the European Social Fund (ESF), including the Youth Employment Initiative (YEI), the scope of its support, specific provisions and the types of expenditure eligible for assistance.

Article 2

Missions

1. The ESF shall promote high levels of employment and job quality, improve access to the labour market, support the geographical and occupational mobility of workers and facilitate their adaptation to industrial change and to changes in production systems needed for sustainable developments, encourage a high level of education and training for all and support the transition between education and employment for young people, combat poverty, enhance social inclusion, and promote gender equality, non-discrimination and equal opportunities, thereby contributing to the priorities of the Union as regards strengthening economic, social and territorial cohesion.

2. The ESF shall fulfil the missions set out in paragraph 1 by supporting Member States in pursuing the priorities and headline targets of the Union strategy for smart, sustainable and inclusive growth (the 'Europe 2020 strategy') and by allowing Member States to address their specific challenges with regard to achieving the Europe 2020 strategy objectives. The ESF shall support the design and implementation of policies and actions in connection with its missions, taking account of the relevant Integrated Guidelines and relevant country-specific recommendations adopted in accordance with Article 121(2) and Article 148(4) TFEU and, where appropriate, at national level, the national reform programmes as well as other relevant national strategies and reports.

3. The ESF shall benefit people, including disadvantaged people such as the long-term unemployed, people with disabilities, migrants, ethnic minorities, marginalised communities and people of all ages facing poverty and social exclusion. The ESF shall also provide support to workers, enterprises, including actors in the social economy, and entrepreneurs, as well as to systems and structures with a view to facilitating their adaptation to new challenges including reducing skill mismatches and promoting good governance, social progress, and the implementation of reforms, in particular in the fields of employment, education, training and social policies.

Article 3

Scope of support

1. Under the thematic objectives set out in points (8), (9), (10) and (11) of the first paragraph of Article 9 of Regulation

(EU) No 1303/2013, which correspond to points (a), (b), (c) and (d) of this paragraph, and in accordance with its missions, the ESF shall support the following investment priorities:

(a) For the thematic objective 'promoting sustainable and quality employment and supporting labour mobility':

(i) Access to employment for job-seekers and inactive people, including the long-term unemployed and people far from the labour market, also through local employment initiatives and support for labour mobility;

(ii) Sustainable integration into the labour market of young people, in particular those not in employment, education or training, including young people at risk of social exclusion and young people from marginalised communities, including through the implementation of the Youth Guarantee;

(iii) Self-employment, entrepreneurship and business creation including innovative micro, small and medium sized enterprises;

(iv) Equality between men and women in all areas, including in access to employment, career progression, reconciliation of work and private life and promotion of equal pay for equal work;

(v) Adaptation of workers, enterprises and entrepreneurs to change;

(vi) Active and healthy ageing;

(vii) Modernisation of labour market institutions, such as public and private employment services, and improving the matching of labour market needs, including through actions that enhance transnational labour mobility as well as through mobility schemes and better cooperation between institutions and relevant stakeholders;

(b) For the thematic objective 'promoting social inclusion, combating poverty and any discrimination':

(i) Active inclusion, including with a view to promoting equal opportunities and active participation, and improving employability;

- (ii) Socio-economic integration of marginalised communities such as the Roma;
- (iii) Combating all forms of discrimination and promoting equal opportunities;
- (iv) Enhancing access to affordable, sustainable and high-quality services, including health care and social services of general interest;
- (v) Promoting social entrepreneurship and vocational integration in social enterprises and the social and solidarity economy in order to facilitate access to employment;
- (vi) Community-led local development strategies;
- (c) For the thematic objective 'investing in education, training and vocational training for skills and life-long learning':
- (i) Reducing and preventing early school-leaving and promoting equal access to good quality early-childhood, primary and secondary education including formal, non-formal and informal learning pathways for reintegrating into education and training;
- (ii) Improving the quality and efficiency of, and access to, tertiary and equivalent education with a view to increasing participation and attainment levels, especially for disadvantaged groups;
- (iii) Enhancing equal access to lifelong learning for all age groups in formal, non-formal and informal settings, upgrading the knowledge, skills and competences of the workforce, and promoting flexible learning pathways including through career guidance and validation of acquired competences;
- (iv) Improving the labour market relevance of education and training systems, facilitating the transition from education to work, and strengthening vocational education and training systems and their quality, including through mechanisms for skills anticipation, adaptation of curricula and the establishment and development of work-based learning systems, including dual learning systems and apprenticeship schemes;
- (d) For the thematic objective 'enhancing institutional capacity of public authorities and stakeholders and efficient public administration':
- (i) Investment in institutional capacity and in the efficiency of public administrations and public services at the national, regional and local levels with a view to reforms, better regulation and good governance;
- This investment priority is applicable only in Member States eligible for support from the Cohesion Fund, or in Member States that have one or more NUTS level 2 regions referred to in Article 90(2)(a) of Regulation (EU) No 1303/2013.
- (ii) Capacity building for all stakeholders delivering education, lifelong learning, training and employment and social policies, including through sectoral and territorial pacts to mobilise for reform at the national, regional and local levels.
2. Through the investment priorities listed in paragraph 1, the ESF shall also contribute to the other thematic objectives listed in the first paragraph of Article 9 of Regulation (EU) No 1303/2013, primarily by:
- (a) Supporting the shift towards a low-carbon, climate-resilient, resource-efficient and environmentally sustainable economy, through the improvement of education and training systems necessary for the adaptation of skills and qualifications, the up-skilling of the labour force, and the creation of new jobs in sectors related to the environment and energy;
- (b) Enhancing the accessibility of, and use and quality of, information and communication technologies through the development of digital literacy and e-learning, and investment in e-inclusion, e-skills and related entrepreneurial skills;
- (c) Strengthening research, technological development and innovation through the development of post-graduate studies and entrepreneurial skills, the training of researchers, networking activities and partnerships between higher education institutions, research and technological centres and enterprises;
- (d) Enhancing the competitiveness and long-term sustainability of small and medium-sized enterprises, through promoting the adaptability of enterprises, managers and workers, increased investment in human capital, and support for bodies providing practice-oriented vocational education and training.

Article 4

Consistency and thematic concentration

1. Member States shall ensure that the strategy and actions set out in their operational programmes are consistent with, and respond to, the challenges identified in their national reform programmes, as well as, where relevant, in their other national strategies that aim to fight unemployment, poverty and social exclusion, and also in the relevant Council recommendations adopted in accordance with Article 148(4) TFEU, in order to contribute to achieving the headline targets of the Europe 2020 strategy on employment, education and poverty reduction.

2. At least 20 % of the total ESF resources in each Member State shall be allocated to the thematic objective "promoting social inclusion, combating poverty and any discrimination" set out in point (9) of the first paragraph of Article 9 of Regulation (EU) No 1303/2013.

3. Member States shall pursue thematic concentration according to the following modalities:

(a) For more developed regions, Member States shall concentrate at least 80 % of the ESF allocation to each operational programme on up to five of the investment priorities set out in Article 3(1).

(b) For transition regions, Member States shall concentrate at least 70 % of the ESF allocation to each operational programme on up to five of the investment priorities set out in Article 3(1).

(c) For less developed regions, Member States shall concentrate at least 60 % of the ESF allocation to each operational programme on up to five of the investment priorities set out in Article 3(1).

4. The priority axes referred to in Article 11(1) shall be excluded from the calculation of the percentages specified in paragraphs 2 and 3 of this Article.

Article 5

Indicators

1. Common output and result indicators, as set out in Annex I to this Regulation, and, where relevant, programme-specific indicators shall be used in accordance with Article 27(4) and Article 96(2)(b)(ii) and (iv) of Regulation (EU) No 1303/2013. All common output and result indicators shall be reported for all investment priorities. The result indicators set out in Annex II to this Regulation shall be reported in accordance with paragraph 2 of this Article. Where applicable, data shall be broken down by gender.

For common and programme-specific output indicators, baselines shall be set at zero. Where relevant to the nature of the operations supported, cumulative quantified target values for those indicators shall be set for 2023. Output indicators shall be expressed in absolute numbers.

For those common and programme-specific result indicators for which a cumulative quantified target value for 2023 has been set, baselines shall be fixed using the latest available data or other relevant sources of information. Programme-specific result indicators and related targets may be expressed in quantitative or qualitative terms.

2. In addition to paragraph 1, result indicators set out in Annex II to this Regulation shall be used for all operations supported under the investment priority referred to in Article 3(1)(a)(ii) for the implementation of the YEI. All indicators set out in Annex II to this Regulation shall be linked with a quantified cumulative target value for 2023 and a baseline.

3. Together with annual implementation reports, each managing authority shall transmit electronically structured data for each priority axis broken down by investment priority. The data shall be submitted for the categories of intervention referred to in Article 96(2)(b)(vi) of Regulation (EU) No 1303/2013 and the output and result indicators. By way of derogation from Article 50(2) of Regulation (EU) No 1303/2013, data transmitted for output and result indicators shall relate to values for partially or fully implemented operations.

CHAPTER II

SPECIFIC PROVISIONS FOR PROGRAMMING AND IMPLEMENTATION

Article 6

Involvement of partners

1. The participation of the partners referred to in Article 5 of Regulation (EU) No 1303/2013 in the implementation of the operational programmes may take the form of global grants as defined in Article 123(7) of Regulation (EU) No 1303/2013. In such cases, the operational programme shall identify the part of the operational programme concerned by the global grant, including an indicative financial allocation from each priority axis to it.

2. To encourage adequate participation of the social partners in actions supported by the ESF, the managing authorities of an operational programme in a region defined in Article 90(2)(a) or (b) of Regulation (EU) No 1303/2013 or in a Member State eligible for support from the Cohesion Fund shall ensure that, according to the needs, an appropriate amount of ESF resources is allocated to capacity building activities, in the form of training, networking measures, and strengthening of the social dialogue, and to activities jointly undertaken by the social partners.

3. To encourage the adequate participation of, and access by, non-governmental organisations in and to actions supported by the ESF, in particular in the fields of social inclusion, gender equality and equal opportunities, the managing authorities of an operational programme in a region defined in Article 90(2)(a) or (b) of Regulation (EU) No 1303/2013 or in a Member State eligible for support from the Cohesion Fund shall ensure that an appropriate amount of ESF resources is allocated to capacity building for non-governmental organisations.

Article 7

Promotion of equality between men and women

The Member States and the Commission shall promote equality between men and women through mainstreaming as referred to in Article 7 of Regulation (EU) No 1303/2013 throughout the preparation, implementation, monitoring and evaluation of the operational programmes. Through the ESF, the Member States and the Commission shall also support specific targeted actions within any of the investment priorities referred to in Article 3, and in particular Article 3(1)(a)(iv) of this Regulation, with the aim of increasing the sustainable participation and progress of women in employment, thus combating the feminisation of poverty, reducing gender-based segregation, combating gender stereotypes in the labour market and in education and training, and promoting the reconciliation of work and personal life for all as well as the equal sharing of care responsibilities between men and women.

Article 8

Promotion of equal opportunities and non-discrimination

The Member States and the Commission shall promote equal opportunities for all, without discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation through mainstreaming the principle of non-discrimination, as referred to in Article 7 of Regulation (EU) No 1303/2013. Through the ESF, the Member States and the Commission shall also support specific actions within any of the investment priorities referred to in Article 3, and in particular Article 3(1)(b)(iii) of this Regulation. Such actions shall aim to combat all forms of discrimination as well as to improve accessibility for persons with disabilities, with a view to improving integration into employment, education and training, thereby enhancing social inclusion, reducing inequalities in terms of educational attainment and health status, and facilitating the transition from institutional to community-based care, in particular for those who face multiple discrimination.

Article 9

Social innovation

1. The ESF shall promote social innovation within all areas falling under its scope, as defined in Article 3 of this Regulation, in particular with the aim of testing, evaluating and scaling up innovative solutions, including at the local or regional level, in order to address social needs in partnership with the relevant partners and, in particular, social partners.

2. Member States shall identify, either in their operational programmes or at a later stage during implementation, fields for social innovation that correspond to the Member States' specific needs.

3. The Commission shall facilitate capacity building for social innovation, in particular through supporting mutual learning, establishing networks, and disseminating and promoting good practices and methodologies.

Article 10

Transnational cooperation

1. Member States shall support transnational cooperation with the aim of promoting mutual learning, thereby increasing the effectiveness of policies supported by the ESF. Transnational cooperation shall involve partners from at least two Member States.

2. By way of derogation from paragraph 1, Member States with a single operational programme supported by the ESF or a single multi-fund operational programme may exceptionally choose not to support transnational cooperation actions, in duly justified cases and taking account of the principle of proportionality.

3. Member States, in partnership with the relevant partners, may select themes for transnational cooperation from a list of common themes proposed by the Commission and endorsed by the Committee referred to in Article 25 or select any other themes corresponding to their specific needs.

4. The Commission shall facilitate transnational cooperation on the common themes of the list referred to in paragraph 3 and, where appropriate, other themes selected by Member States, through mutual learning and coordinated or joint action. In particular, the Commission shall operate an EU-level platform to facilitate the setting up of transnational partnerships, the exchange of experiences, capacity building and networking, and the capitalisation on and the dissemination of the relevant outcomes. In addition, the Commission shall develop a coordinated implementation framework, including common eligibility criteria, types and timing of actions, and common methodological approaches for monitoring and evaluation, with a view to facilitating transnational cooperation.

Article 11

Fund-specific provisions for operational programmes

1. By way of derogation from Article 96(1) of Regulation (EU) No 1303/2013, operational programmes may set out priority axes for the implementation of social innovation and transnational cooperation as referred to in Articles 9 and 10 of this Regulation.

2. By way of derogation from Article 120(3) of Regulation (EU) No 1303/2013, the maximum co-financing rate for a priority axis shall be increased by ten percentage points, but shall not exceed 100 % where the whole of a priority axis is dedicated to social innovation or to transnational cooperation, or a combination of both.

3. In addition to the provision made in Article 96(3) of Regulation (EU) No 1303/2013, operational programmes shall also set out the contribution of planned ESF-supported actions to:

- (a) the thematic objectives listed under points (1) to (7) of the first paragraph of Article 9 of Regulation (EU) No 1303/2013 by priority axis, as appropriate;
- (b) social innovation and transnational cooperation, as referred to in Articles 9 and 10 of this Regulation, where they are not covered by a dedicated priority axis.

Article 12

Specific provisions on the treatment of particular territorial features

1. The ESF may support community-led local development strategies in urban and rural areas, as referred to in Articles 32, 33 and 34 of Regulation (EU) No 1303/2013, territorial pacts and local initiatives for employment, including youth employment, education and social inclusion, as well as Integrated territorial investments (ITI) as referred to in Article 36 of Regulation (EU) No 1303/2013.

2. As a complement to ERDF interventions as referred to in Article 7 of Regulation (EU) No 1301/2013 of the European Parliament and of the Council⁽¹⁾, the ESF may support sustainable urban development through strategies setting out integrated actions to tackle the economic, environmental and social challenges affecting the urban areas identified by the Member States on the basis of the principles laid down in their respective Partnership Agreements.

CHAPTER III

SPECIFIC PROVISIONS FOR FINANCIAL MANAGEMENT

Article 13

Eligibility of expenditure

1. The ESF shall provide support for eligible expenditure which, as referred to in Article 120(2)(b) of Regulation (EU) No 1303/2013, may include any financial resources collectively contributed by employers and workers.

⁽¹⁾ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (See page 289 of this Official Journal).

2. The ESF may provide support for expenditure incurred for operations which take place outside the programme area, but within the Union, provided that the following two conditions are satisfied:

- (a) the operation is for the benefit of the programme area;
- (b) the obligations of the authorities for the operational programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the operational programme under which that operation is supported or they enter into agreements with authorities in the Member State in which the operation is implemented provided that in that Member State the obligations in relation to management, control and audit concerning the operation are met.

3. Up to a limit of 3 % of the budget of an ESF operational programme or the ESF part of a multi-fund operational programme, expenditure incurred outside the Union shall be eligible for a contribution from the ESF provided that it concerns the thematic objectives under Article 3(1)(a) or Article 3(1)(c) and provided that the relevant monitoring committee has given its agreement to the operation or types of operations concerned.

4. In addition to the expenditure referred to in Article 69(3) of Regulation (EU) No 1303/2013, the purchase of infrastructure, land and real estate shall also not be eligible for a contribution from the ESF.

5. Contributions in kind in the form of allowances or salaries disbursed by a third party for the benefit of the participants in an operation may be eligible for a contribution from the ESF provided that the contributions in kind are incurred in accordance with national rules, including accountancy rules, and do not exceed the cost borne by the third party.

Article 14

Simplified cost options

1. In addition to the options referred to in Article 67 of Regulation (EU) No 1303/2013, the Commission may reimburse expenditure paid by Member States on the basis of standard scales of unit costs and lump sums defined by the Commission. The amounts calculated on this basis shall be regarded as public support paid to beneficiaries and as eligible expenditure for the purpose of applying Regulation (EU) No 1303/2013.

For the purpose of the first subparagraph, the Commission shall be empowered to adopt delegated acts in accordance with Article 24 concerning the type of operations covered, the definitions of the standard scales of unit costs and lump sums and their maximum amounts, which may be adjusted according to the applicable commonly agreed methods, taking due account of experience gained during the previous programming period.

Financial audit shall exclusively aim at verifying that the conditions for reimbursement by the Commission on the basis of standard scales of unit costs and lump sums have been fulfilled.

Where funding on the basis of standard scales of unit costs and lump sums, in accordance with the first subparagraph, is used, the Member State may apply its accounting practices to support operations. For the purpose of this Regulation and Regulation (EU) No 1303/2013, such accounting practices and the resulting amounts shall not be subject to audit by the audit authority or by the Commission.

2. In accordance with Article 67(1)(d) and (5)(d) of Regulation (EU) No 1303/2013, a flat rate of up to 40 % of the eligible direct staff costs may be used in order to cover the remaining eligible costs of an operation without a requirement for the Member State to execute any calculation to determine the applicable rate.

3. In addition to the methods stipulated in Article 67(5) of Regulation (EU) No 1303/2013, where the public support for grants and repayable assistance does not exceed EUR 100 000, the amounts referred to in Article 67(1)(b), (c) and (d) of Regulation (EU) No 1303/2013 may be established on a case-by-case basis by reference to a draft budget agreed ex ante by the managing authority.

4. Without prejudice to Article 67 (4) of Regulation (EU) No (1303/2013), grants and repayable assistance for which the public support does not exceed EUR 50 000 shall take the form of standard scales of unit costs or lump sums in accordance with paragraph 1 of this Article or with Article 67 of Regulation (EU) No (1303/2013) or flat rates in accordance with Article 67 of Regulation (EU) No (1303/2013), except for operations receiving support within the framework of a State aid scheme. Where flat-rate financing is used, the categories of costs which are used to calculate the rate may be reimbursed in accordance with Article 67(1)(a) of Regulation (EU) No (1303/2013).

Article 15

Financial instruments

Pursuant to Article 37 of Regulation (EU) No 1303/2013, the ESF may support actions and policies falling within its scope through financial instruments, including micro-credits and guarantee funds.

CHAPTER IV

YOUTH EMPLOYMENT INITIATIVE

Article 16

Youth Employment Initiative

The YEI shall support the fight against youth unemployment in eligible regions of the Union through providing support to actions under Article 3(1)(a)(ii) of this Regulation. It shall

target all young persons under the age of 25 not in employment, education or training, residing in eligible regions, who are inactive or unemployed including the long-term unemployed, and whether or not registered as seeking work. On a voluntary basis, Member States may decide to extend the target group to include young persons under the age of 30.

For the purpose of the YEI for 2014-2015, "eligible regions" are those NUTS level 2 regions that have youth unemployment rates for young persons aged 15 to 24 of more than 25 % in 2012 and, for Member States where the youth unemployment rate has increased by more than 30 % in 2012, NUTS level 2 regions that have youth unemployment rates of more than 20 % in 2012.

The resources for the YEI may be revised upwards for the years 2016 to 2020 in the framework of the budgetary procedure in accordance with Article 14 of Regulation (EU) 1311/2013. For the determination of the regions eligible for the YEI for the period 2016-2020, the reference to 2012 data in the second subparagraph shall be construed as a reference to the latest available annual data. The breakdown by Member State of the additional resources shall follow the same steps as the initial allocation in accordance with Annex VIII of Regulation (EU) No 1303/2013.

In agreement with the Commission, Member States may decide to allocate a limited amount not exceeding 10 % of the funds under the YEI to young persons residing in sub-regions which experience high youth unemployment levels and which are outside the eligible NUTS level 2 regions.

Article 17

Thematic concentration

The specific allocation for YEI shall not be taken into account for the purpose of calculating the thematic concentration referred to in Article 4.

Article 18

Programming

The YEI is integrated into the programming of the ESF under Article 96 of Regulation (EU) No 1303/2013. Where appropriate, Member States shall set out the programming arrangements for the YEI in their Partnership Agreements and in their operational programmes.

The programming arrangements may take one or more of the following forms:

- (a) a dedicated operational programme;
- (b) a dedicated priority axis within an operational programme;
- (c) a part of one or more priority axes.

Article 9 and 10 of this Regulation shall also apply to the YEI.

*Article 19***Monitoring and evaluation**

1. In addition to the functions of the monitoring committee set out in Article 110 of Regulation (EU) No 1303/2013, at least once per year, the monitoring committee shall examine the implementation of the YEI in the context of the operational programme and the progress made towards achieving its objectives.

2. The annual implementation reports and the final report as referred to in Article 50(1) and (2) of Regulation (EU) No 1303/2013 shall include additional information on the implementation of the YEI. The Commission shall transmit to the European Parliament a summary of those reports as referred to in Article 53(1) of Regulation (EU) No 1303/2013.

The Commission shall attend the European Parliament's annual debate on those reports.

3. As from April 2015 and for subsequent years, and at the same time as the annual implementation reports referred to in Article 50(1) and (2) of Regulation (EU) No 1303/2013, the managing authority shall transmit electronically to the Commission structured data for each priority axis or any part thereof supporting the YEI. Indicator data transmitted shall relate to values for the indicators set out in Annexes I and II to this Regulation and, where applicable, to programme specific indicators. They shall relate to partially or fully implemented operations.

4. The annual implementation reports referred to in Article 50(4) of Regulation (EU) No 1303/2013 or, where applicable, the progress report referred to in Article 111(4) of Regulation (EU) No 1303/2013, and the annual implementation report submitted by 31 May 2016, shall present the main findings of evaluations referred to in paragraph 6 of this Article. The reports shall also set out and assess the quality of employment offers received by YEI participants, including disadvantaged persons, those from marginalised communities and those leaving education without qualifications. The reports shall also set out and assess their progress in continuing education, finding sustainable and decent jobs, or moving into apprenticeships or quality traineeships.

5. The progress reports referred to in Article 52 of Regulation (EU) No 1303/2013 shall include additional information on, and assess the implementation of, the YEI. The Commission shall transmit to the European Parliament a summary of these reports as referred to in Article 53(2) of that Regulation and shall attend the European Parliament's debate on those reports.

6. At least twice during the programming period, an evaluation shall assess the effectiveness, efficiency and impact of joint support from the ESF and the specific allocation for YEI including for the implementation of the Youth Guarantee.

The first evaluation shall be completed by 31 December 2015 and the second evaluation by 31 December 2018.

*Article 20***Information and communication measures**

1. The beneficiaries shall ensure that those taking part in an operation are specifically informed of the YEI support provided through the ESF funding and the specific YEI allocation.

2. Any document relating to the implementation of an operation and issued for the public or for participants, including an attendance or other certificate, shall include a statement to the effect that the operation was supported under the YEI.

*Article 21***Technical assistance**

The specific allocation for YEI may be taken into account by the Member States in the calculation of the limit on the total amount of funds allocated to technical assistance for each Member State.

*Article 22***Financial support**

1. The Commission decision adopting an operational programme shall fix the maximum amount of support from the specific allocation for YEI and the corresponding ESF support, as a global amount and also by category of regions, for each priority axis. The corresponding ESF support shall at least match the support from the specific allocation for YEI for each priority axis.

2. On the basis of the amounts referred to in paragraph 1, the Commission decision referred to in paragraph 1 shall also fix the ratio between the categories of regions for the ESF support for each priority axis.

3. Where the YEI is implemented by a specific priority axis covering eligible regions from more than one category, the highest co-financing rate shall apply with regard to the ESF allocation.

The specific allocation for YEI shall not be subject to the national co-financing requirement.

The overall co-financing rate of the priority axis fixed by the Commission decision referred to in paragraph 1 shall be calculated taking into account the co-financing rate of the ESF allocation together with the special allocation for the YEI.

*Article 23***Financial management**

In addition to Article 130 of Regulation (EU) No 1303/2013, when the Commission reimburses interim payments and pays the final balance for the YEI by priority axis, it shall allocate the reimbursement from the budget of the Union equally between the ESF and the specific allocation for YEI. Once all resources from the specific allocation for YEI have been reimbursed, the Commission shall allocate the remaining reimbursements from the budget of the Union to the ESF.

The Commission shall allocate the reimbursement from the ESF between categories of regions according to the ratio laid down in Article 22 (2).

CHAPTER V

DELEGATIONS OF POWER AND FINAL PROVISIONS

Article 24

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 14(1) shall be conferred on the Commission from 21 December 2013 until 31 December 2020.

3. The delegation of power referred to in Article 14(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 14(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council, or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 25

Committee under Article 163 TFEU

1. The Commission shall be assisted by a Committee (the "ESF Committee") set up under Article 163 TFEU.

2. The member of the Commission responsible for chairing the ESF Committee may delegate that responsibility to a senior Commission official. The Secretariat of the ESF Committee shall be provided by the Commission.

3. Each Member State shall appoint one government representative, one representative of the workers' organisations, one representative of the employers' organisations and one alternate for each member for a maximum period of seven years. In the absence of a member, the alternate shall be automatically entitled to take part in the proceedings.

4. The ESF Committee shall include one representative from each of the organisations representing workers' organisations and employers' organisations at Union level.

5. The ESF Committee may invite non-voting representatives of the European Investment Bank and the European Investment Fund as well as non-voting representatives of the relevant civil society organizations to its meetings, if the agenda of the meeting requires their participation.

6. The ESF Committee shall:

(a) be consulted on draft Commission decisions relating to operational programmes and programming in the case of support from the ESF;

(b) be consulted on the planned use of technical assistance in the case of support from the ESF, as well as on other issues having an impact on the implementation of strategies at Union level relevant to the ESF;

(c) endorse the list of common themes for transnational cooperation provided for in Article 10(3).

7. The ESF Committee may deliver opinions on:

(a) questions related to the ESF contribution to the implementation of the Europe 2020 strategy;

(b) issues concerning Regulation (EU) No 1303/2013 relevant for the ESF;

(c) questions related to the ESF referred to it by the Commission other than those referred to in paragraph 6.

8. The opinions of the ESF Committee shall be adopted by an absolute majority of the votes validly cast, and shall be communicated to the European Parliament for information. The Commission shall inform the ESF Committee of the manner in which it has taken account of its opinions.

Article 26

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Regulation (EC) No 1081/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation shall consequently continue to apply after 31 December 2013 to that assistance or the operations concerned until their closure.

2. Applications to receive assistance made or approved under Regulation (EC) No 1081/2006 before 1 January 2014 shall remain valid.

Article 27

Repeal

Without prejudice to the provisions laid down in Article 26 of this Regulation, Regulation (EC) No 1081/2006 is hereby repealed with effect from 1 January 2014.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex III.

Article 28

Review

The European Parliament and the Council shall review this Regulation by 31 December 2020 in accordance with Article 164 TFEU.

Article 29

Entry in force

This Regulation shall enter into force on the 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, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
R. ŠADŽIUS

ANNEX I

Common output and result indicators for ESF investments

(1) Common output indicators for participants

"Participants" ⁽¹⁾ refers to persons benefiting directly from an ESF intervention who can be identified and asked for their characteristics, and for whom specific expenditure is earmarked. Other persons shall not be classified as participants. All data shall be broken down by gender.

The common output indicators for participants are:

- unemployed, including long-term unemployed*,
- long-term unemployed*,
- inactive*,
- inactive, not in education or training*,
- employed, including self-employed*,
- below 25 years of age*,
- above 54 years of age*,
- above 54 years of age who are unemployed, including long-term unemployed, or inactive not in education or training*,
- with primary (ISCED 1) or lower secondary education (ISCED 2)*,
- with upper secondary (ISCED 3) or post-secondary education (ISCED 4)*,
- with tertiary education (ISCED 5 to 8)*,
- participants who live in jobless households*,
- participants who live in jobless households with dependent children*,
- participants who live in a single adult household with dependent children*,
- migrants, participants with a foreign background, minorities (including marginalised communities such as the Roma)**,
- participants with disabilities**,
- other disadvantaged**.

The total number of participants will be calculated automatically on the basis of the output indicators.

These data on participants entering an ESF supported operation shall be provided in the annual implementation reports as specified in Article 50(1) and (2) and Article 111(1) of Regulation (EU) No 1303/2013.

- homeless or affected by housing exclusion*,
- from rural areas* ⁽²⁾.

⁽¹⁾ Managing authorities shall establish a system that records and stores individual participant data in computerised form as set out in Article 125 (2) (d) of Regulation (EU) No 1303/2013. The data processing arrangements put in place by the Member States shall be in line with the provisions of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31), in particular Articles 7 and 8 thereof.

Data reported under the indicators marked with * are personal data according to Article 7 of Directive 95/46/EC. Their processing is necessary for compliance with the legal obligation to which the controller is subject (Article 7(c) of Directive 95/46/EC). For the definition of controller, see Article 2 of Directive 95/46/EC.

Data reported under the indicators marked with ** are a special category of data according to Article 8 of Directive 95/46/EC. Subject to the provision of suitable safeguards, Member States may, for reasons of substantial public interest, lay down exemptions in addition to those laid down in Article 8(2) of Directive 95/46/EC, either by national law or by decision of the supervisory authority (Article 8(4) of Directive 95/46/EC).

⁽²⁾ The data shall be collected at the level of smaller administrative units (local administrative units 2), in accordance with Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

The data on participants under the two above indicators will be provided in the annual implementation reports as specified in Article 50(4) of Regulation (EU) No 1303/2013. The data shall be collected based on a representative sample of participants within each investment priority. Internal validity of the sample shall be ensured in such a way that the data can be generalised at the level of investment priority.

(2) Common output indicators for entities are:

- number of projects fully or partially implemented by social partners or non-governmental organisations,
- number of projects dedicated at sustainable participation and progress of women in employment,
- number of projects targeting public administrations or public services at national, regional or local level,
- number of supported micro, small and medium-sized enterprises (including cooperative enterprises, enterprises of the social economy).

These data shall be provided in the annual implementation reports as specified in Article 50(1) and (2) and Article 111(1) of Regulation (EU) No 1303/2013.

(3) Common immediate result indicators for participants are:

- inactive participants engaged in job searching upon leaving*,
- participants in education/training upon leaving*,
- participants gaining a qualification upon leaving*,
- participants in employment, including self-employment, upon leaving*,
- disadvantaged participants engaged in job searching, education/ training, gaining a qualification, in employment, including self-employment, upon leaving**.

These data shall be provided in the annual implementation reports as specified in Article 50(1) and (2) and Article 111(1) of Regulation (EU) No 1303/2013. All data shall be broken down by gender.

(4) Common longer-term result indicators for participants are:

- participants in employment, including self-employment, six months after leaving*,
- participants with an improved labour market situation six months after leaving*,
- participants above 54 years of age in employment, including self-employment, six months after leaving*,
- disadvantaged participants in employment, including self-employment, six months after leaving**.

These data shall be provided in the annual implementation reports as specified in Article 50(5) of Regulation (EU) No 1303/2013. They shall be collected based on a representative sample of participants within each investment priority. Internal validity of the sample shall be ensured in such a way that the data can be generalised at the level of investment priority. All data shall be broken down by gender.

ANNEX II

Result indicators for the YEI

These data shall be provided in the annual implementation reports as specified in Article 50(1) and (2) of Regulation (EU) No 1303/2013 and in the report to be submitted in April 2015 as specified in Article 19(3) of this Regulation. All data shall be broken down by gender.

(1) Common immediate result indicators for participants

"Participants" ⁽¹⁾ refers to persons benefiting directly from a YEI intervention who can be identified and asked for their characteristics, and for whom specific expenditure is earmarked.

The immediate result indicators are:

- Unemployed participants who complete the YEI supported intervention*,
- Unemployed participants who receive an offer of employment, continued education, apprenticeship or traineeship upon leaving*,
- Unemployed participants who are in education/training, gain a qualification, or are in employment, including self-employment, upon leaving*,
- Long-term unemployed participants who complete the YEI supported intervention*,
- Long-term unemployed participants who receive an offer of employment, continued education, apprenticeship or traineeship upon leaving*,
- Long-term unemployed participants who are in education/training, gain a qualification, or are in employment, including self-employment, upon leaving*,
- Inactive participants not in education or training who complete the YEI supported intervention*,
- Inactive participants not in education or training who receive an offer of employment, continued education, apprenticeship or traineeship upon leaving*,
- Inactive participants not in education or training who are in education/training, gain a qualification, or are in employment, including self-employment, upon leaving*.

(2) Common longer-term result indicators for participants

The longer-term result indicators are:

- Participants in continued education, training programmes leading to a qualification, an apprenticeship or a traineeship six months after leaving*,
- Participants in employment six months after leaving*,
- Participants in self-employment six months after leaving*.

The data for longer-term result indicators shall be collected based on a representative sample of participants within each investment priority. Internal validity of the sample shall be ensured in such a way that the data can be generalised at the level of investment priority.

⁽¹⁾ Managing authorities shall establish a system that records and stores individual participant data in computerised form as set out in Article 125 (2) (d) of Regulation (EU) No 1303/2013. The data processing arrangements put in place by the Member States must be in line with the provisions of Directive 95/46/EC, in particular Articles 7 and 8 thereof.

Data reported under the indicators marked with * are personal data according to Article 7 of Directive 95/46/EC. Their processing is necessary for compliance with the legal obligation to which the controller is subject (Article 7(c) of Directive 95/46/EC). For the definition of controller, see Article 2 of Directive 95/46/EC.

Data reported under the indicators marked with ** are a special category of data according to Article 8 of Directive 95/46/EC. Subject to the provision of suitable safeguards, Member States may, for reasons of substantial public interest, lay down exemptions in addition to those laid down in Article 8(2) of Directive 95/46/EC, either by national law or by decision of the supervisory authority (Article 8(4) of Directive 95/46/EC).

ANNEX III

Correlation table

European Parliament and Council Regulation (EC) No 1081/2006	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
	Article 5
Article 5	Article 6
Article 6	Article 7
	Article 8
Article 7	Article 9
Article 8	Article 10
Article 9	—
Article 10	—
	Article 11
	Article 12
Article 11	Article 13
	Article 14
	Article 15
	Articles 16 to 23
	Article 24
	Article 25
Article 12	Article 26
Article 13	Article 27
Article 14	Article 28
Article 15	Article 29

**REGULATION (EU) No 1305/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 december 2013**

**on support for rural development by the European Agricultural Fund for Rural Development
(EAFRD) and repealing Council Regulation (EC) No 1698/2005**

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 42 and Article 43(2) 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 Court of Auditors,

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

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future" set out the potential challenges, objectives and orientations for the common agricultural policy ("the CAP") after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 1698/2005⁽¹⁾. In view of the scope of the reform, it is appropriate to repeal Regulation (EC) No 1698/2005 and to replace it with a new text.
- (2) A rural development policy should be established to accompany and complement direct payments and market measures of the CAP and thereby to contribute

to that policy's objectives as laid down in the Treaty on the Functioning of the European Union ("TFEU"). Such rural development policy should also integrate the major policy objectives set out in the Communication from the Commission of 3 March 2010 entitled "Europe 2020 - A strategy for smart, sustainable and inclusive growth" ("the Europe 2020 Strategy") and should be coherent with the general objectives for the economic and social cohesion policy, as set out in the TFEU.

- (3) Since the objective of this Regulation, namely rural development, cannot be sufficiently achieved by the Member States, given the links between rural development and the other instruments of the CAP, the extent of the disparities that exist between the various rural areas and the limits on the financial resources of the Member States in an enlarged Union but can rather, by reason of the multi-annual guarantee of Union finance and by concentrating on its priorities, 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 ("TEU"). 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.

- (4) To ensure the sustainable development of rural areas, it is necessary to focus on a limited number of core priorities relating to knowledge transfer and innovation in agriculture, forestry and rural areas, to farm viability, to the competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and the sustainable management of forests, to the organisation of the food chain, including the processing and marketing of agricultural products, to animal welfare, to risk management in agriculture, restoring, preserving and enhancing ecosystems that are related to agriculture and forestry, to the promotion of resource efficiency and the shift towards a low carbon economy in the agricultural, food and forestry sectors, and to promoting social inclusion, poverty reduction in and the economic development of rural areas. In doing so, account should be taken of the diversity of the situations that affect rural areas with different characteristics or different categories of potential beneficiaries and of the cross-cutting objectives of innovation, environment and climate change mitigation and adaptation. Mitigation action should relate both to limiting emissions in agriculture and forestry from key activities such as livestock production, fertilizer use and to preserving carbon sinks and enhancing carbon sequestration with regard to land use, land use change and the forestry sector. The Union priority for rural development relating to knowledge transfer and innovation in agriculture,

⁽¹⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

forestry and rural areas should apply horizontally in relation to the other Union priorities for rural development.

- (5) The Union's priorities for rural development should be pursued in the framework of sustainable development and the Union's promotion of the aim of protecting and improving the environment, as set out in Article 11 TFEU, taking into account the polluter pays principle. The Member States should, provide information on the support for climate change objectives in line with the ambition to devote at least 20 % of the Union budget to this end using a methodology adopted by the Commission.
- (6) The activities of the European Agricultural Fund for Rural Development ("the EAFRD") and the operations to which it contributes should be consistent and compatible with support from other instruments of the CAP.
- (7) In order to ensure the immediate start and efficient implementation of rural development programmes, support from the EAFRD should be based on the existence of administrative framework conditions that are sound. Member States should therefore assess the applicability and fulfilment of certain ex ante conditionalities. Each Member State should prepare either a national rural development programme for its entire territory or a set of regional programmes or both a national programme and a set of regional programmes. Each programme should identify a strategy for meeting targets in relation to the Union priorities for rural development and a selection of measures. Programming should comply with Union priorities for rural development, whilst at the same time adapting to national contexts and complementing the other Union policies, in particular the agricultural market policy, the cohesion policy and the common fisheries policy. Member States which opt for preparing a set of regional programmes should also be able to prepare a national framework, without a separate budgetary allocation, in order to facilitate co-ordination among the regions in addressing nation-wide challenges.
- (8) Member States should be able to include in their rural development programmes thematic sub-programmes to address specific needs in areas of particular importance to them. Thematic sub-programmes should concern, among others, young farmers, small farms, mountain areas, the creation of short supply chains, women in rural areas and climate change mitigation and adaptation and biodiversity. Thematic sub-programmes should also be used to provide for the possibility to contribute to the restructuring of agricultural sectors which have a strong impact on the development of rural areas. As a means of increasing the efficient intervention of certain thematic sub-programmes Member States should be allowed to provide for higher support rates for certain operations covered by those thematic sub-programmes.
- (9) Rural development programmes should identify the needs of the area covered and describe a coherent strategy to meet them in the light of the Union priorities for rural development. That strategy should be based on the setting of targets. The links between the needs identified, the targets set and the choice of measures selected to meet them should be established. Rural development programmes should also contain all the information required to assess their conformity with the requirements of this Regulation.
- (10) Targets are to be established in rural development programmes against a common set of target indicators for all Member States and where necessary, against programme specific indicators. In order to facilitate this exercise the areas covered by these indicators should be defined, in line with the Union priorities for rural development. Given the horizontal application of the Union priority for rural development relating to knowledge transfer in agriculture and forestry, interventions under this priority are to be considered as instrumental to the target indicators defined for the remaining Union priorities.
- (11) It is necessary to establish certain rules for programming and revising rural development programmes. A simplified procedure should be provided for revisions that do not affect the strategy of the programmes or the respective Union financial contributions.
- (12) The evolution and specialisation of agriculture and forestry and the particular challenges faced by micro and small and medium-sized enterprises ("SMEs") in rural areas require an appropriate level of technical and economic training as well as an increased capacity to access and exchange knowledge and information including through the diffusion of best agricultural and forestry production practices. Knowledge transfer and information actions should not only take the form of traditional training courses but should also be adapted to the needs of rural actors. Workshops, coaching, demonstration activities, information actions and also short-term farm and forest-exchange schemes and visits should therefore also be supported. The knowledge and information acquired should enable farmers, forest holders, persons engaged in the food sector and rural SMEs to, in particular, enhance their competitiveness

and resource efficiency and improve their environmental performance while at the same time contributing to the sustainability of the rural economy. When providing support to SMEs, Member States have the possibility to give priority to SMEs linked to the agriculture and forestry sectors. In order to ensure that knowledge transfer and information actions are effective in delivering these results it should be required that the providers of knowledge transfer services have all the appropriate capabilities.

- (13) Farm advisory services help farmers, young farmers, forest holders, other land managers and SMEs in rural areas to improve the sustainable management and overall performance of their holding or business. Therefore both the setting up of such services and the use of advice by farmers, young farmers, forest holders, other land managers and SMEs should be encouraged. In order to enhance the quality and effectiveness of the advice offered, provision should be made for the minimum qualifications and regular training of advisors. As provided for in Regulation (EU) No 1306/2013 of the European Parliament and of the Council⁽¹⁾ farm advisory services should help farmers to assess the performance of their agricultural holding and to identify the necessary improvements as regards the statutory management requirements, good agricultural and environmental conditions, agricultural practices beneficial to the climate and the environment set out in Regulation (EU) No 1307/2013 of the European Parliament and of the Council⁽²⁾ and measures at farm level provided for in the rural development programmes aiming at farm modernisation,

competitiveness building, sectoral integration, innovation, market orientation as well as the promotion of entrepreneurship. Farm advisory services should also help farmers to identify the necessary improvements as regards requirements laid down for the implementation of

Article 11(3) of Directive 2000/60/EC of the European Parliament and of the Council⁽³⁾ ("the Water Framework Directive"), as well as requirements for the implementation of Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council⁽⁴⁾ and Article 14 of Directive 2009/128/EC of the European Parliament and of the Council⁽⁵⁾, in particular in relation to the compliance with the general principles of integrated pest management. Where relevant, advice should also cover occupational or safety standards linked to the farm as well as specific advice for farmers setting up for the first time. It should also be possible for advice to cover the setting up by young farmers, the sustainable development of the economic activities of the holding and local processing and marketing issues, linked to the economic, agricultural and environmental performance of the holding or enterprise. Specific advice may also be provided on climate change mitigation and adaptation, biodiversity, the protection of water, the development of short supply chains, organic farming and health aspects of animal husbandry. When providing support to SMEs, Member States have the possibility to give priority to SMEs linked to the agriculture and forestry sectors. Farm management and farm relief services should help farmers improve and facilitate management of their holding.

- (14) Union or national quality schemes, including farm certification schemes for agricultural products and food, provide consumers with assurances on the quality and characteristics of the product or the production process used as a result of the participation of farmers in such schemes, achieve added value for the products concerned and enhance their market opportunities. Farmers and groups of farmers should therefore be encouraged to participate in those schemes. In order to ensure the effective use of EAFRD resources, support should be limited to active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013. As it is at the moment of entering into such schemes and in the early years of participation that additional costs and obligations imposed on farmers as a result of their participation are not fully remunerated by the market, support should be provided for new participation and should cover a period of no more than five years. Given the special characteristics of cotton as a farm product, quality schemes for cotton should also be covered. Support should also be made available for

⁽¹⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 december 2013 on the financing, management and monitoring of the common agricultural policy (See page 549 of this Official Journal).

⁽²⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 december 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulations (EC) No 637/2008 and (EC) No 73/2009 (See page 608 of this Official Journal).

⁽³⁾ Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽⁴⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

⁽⁵⁾ Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

information and promotion activities concerning products covered by the quality and certification schemes receiving support pursuant to this Regulation.

- (15) In order to improve the economic and environmental performance of agricultural holdings and rural enterprises, to improve the efficiency of the agricultural products marketing and processing sector, including the setting up of small scale processing and marketing facilities in the context of short supply chains and local markets, to provide infrastructure needed for the development of agriculture and forestry and to support non-remunerative investments necessary to achieve environmental aims, support should be provided for physical investments contributing to these aims. During the 2007-2013 programming period a variety of measures covered different areas of intervention. In the interest of simplification, but also of allowing beneficiaries to design and realise integrated projects with increased added value, a single measure should cover most types of physical investments. Member States should direct the support to farms eligible for aid for investments related to supporting farm viability based on the results of the strengths, weaknesses, opportunities and threats ("SWOT") analysis as a means of better targeting that aid. In order to facilitate the setting up by young farmers for the first time an additional period of eligibility for investments to comply with Union standards can be granted. In order to foster the implementation of new Union standards, investments related to compliance with those standards should be eligible for an additional period after they have become mandatory for the agricultural holding.
- (16) The agricultural sector, more than other sectors, is subject to damage to its productive potential caused by natural disasters, adverse climatic events and catastrophic events. In order to help farm viability and competitiveness in the face of such disasters or events, support should be provided to help farmers restore agricultural potential which has been damaged. Member States should also ensure that no overcompensation of damages occurs as a result of the combination of Union (in particular the risk management measure under this Regulation), national and private compensation schemes.
- (17) For the development of rural areas, the creation and development of new economic activity in the form of new farms, the diversification into non-agricultural activities including the provision of services to agriculture and forestry, activities related to health care, social integration and tourist activities are essential. It is also

possible for diversification into non-agricultural activities to address the sustainable management of cynegetic resources. A farm and business development measure should facilitate the initial establishment of young farmers and the structural adjustment of their agricultural holding after the initial setting up. Furthermore, diversification of farmers into non-agricultural activities and the setting up and development of non-agricultural SMEs in rural areas should be promoted. That measure should also encourage entrepreneurship of women in rural areas. The development of small farms, which are potentially economically viable should also be encouraged. In order to ensure the viability of new economic activities supported under that measure, support should be made conditional on the submission of a business plan. Support for a business start up should cover only the initial period of the life of such a business and should not become an operating aid. Therefore, where Member States opt to grant aid in instalments, such instalments should be made over a period of no more than five years. In addition, in order to encourage the restructuring of the agricultural sector, support, in the form of annual or one-off payments, should be provided for farmers eligible for the small farmers scheme established by Title V of Regulation (EU) No 1307/2013 ("the small farmer's scheme") who commit to transfer their entire holding and the corresponding payment entitlements to another farmer.

In order to address problems of young farmers related to access to land Member States are also able to offer this support in combination with other forms of support, for example, through the use of financial instruments.

- (18) SMEs are the backbone of the rural economy of the Union. Farm and non-agricultural business development should be aimed at employment promotion and the setting up of quality jobs in rural areas, the maintenance of existing jobs, the reduction of seasonality fluctuations in employment, the development of non-agricultural sectors outside agriculture and agricultural and food processing. At the same time it should foster business integration and local inter-sectoral links. Projects that bring together agriculture and, rural tourism through the promotion of sustainable and responsible tourism in rural areas, and natural and cultural heritage should be encouraged as well as renewable energy investments.
- (19) The development of local infrastructure and local basic services in rural areas, including leisure and culture services, the renewal of villages and activities aimed at the restoration and upgrading of the cultural and natural heritage of villages and rural landscapes is an essential element of any effort to realise the growth potential and to promote the sustainability of rural areas. Support should therefore be granted to operations with that

aim, including access to Information and Communication Technologies and the development of fast and ultra-fast broadband. In line with those objectives, the development of services and infrastructure leading to social inclusion and reversing trends of social and economic decline and depopulation of rural areas should be encouraged. In order to achieve the maximum effectiveness of such support, covered operations should be implemented in accordance with plans for the development of municipalities and their basic services, where such plans exist, elaborated by one or more rural communes. In order to create synergies and to improve co-operation, operations should also, where relevant, promote rural-urban links. Member States have the possibility to give priority to investments by community-led local development partnerships, and to projects managed by local community organisations.

- (20) Forestry is an integral part of rural development and support for sustainable and climate friendly land use should include forest area development and sustainable management of forests. During the 2007-2013 programming period, a variety of measures covered different types of support for forestry investments and management. In the interests of simplification and of allowing beneficiaries to design and realise integrated projects with increased added value, a single measure should cover all types of support for forestry investments and management. That measure should cover the extension and improvement of forest resources through the afforestation of land and the creation of agroforestry systems combining extensive agriculture with forestry systems. It should also cover the restoration of forests damaged by fire or other natural disasters and catastrophic events and relevant prevention measures; investments in forestry technologies and in the processing; the mobilising and marketing of forest products aimed at improving the economic and environmental performance of forest holders; and non-remunerative investments which improve ecosystem and climate resilience and environmental value of forest ecosystems. Support should not distort competition and should be market neutral. As a result, limitations relating to the size and legal status of beneficiaries should be imposed. Preventive actions against fires should be undertaken in areas classified by Member States as medium or high fire risk. All preventive actions should be part of a forest protection plan. In the case of an action undertaken for the restoration of damaged forest potential, the occurrence of a natural disaster should be subject to formal recognition by a scientific public organisation.

The forestry measure should be adopted in the light of undertakings given by the Union and Member States at international level, and should be based on Member States' national or sub-national forest plans or equivalent instruments which should take into account the

commitments made in the Ministerial Conferences on the Protection of Forests in Europe. It should contribute to the implementation of the Union Forest Strategy in line with the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "A new EU Forest Strategy: for forests and the forest-based sector".

- (21) Producer groups and organisations help farmers to face together the challenges posed by increased competition and consolidation of downstream markets in relation to the marketing of their products including in local markets. The setting up of producer groups and organisations should therefore be encouraged. In order to ensure the best use of limited financial resources only producer groups and organisations that qualify as SMEs should benefit from support. Member States have the possibility to give priority to producer groups and organisations of quality products covered by the measure on quality schemes for agricultural products and foodstuffs in this Regulation. In order to ensure that the producer group or organisation becomes a viable entity, a business plan should be submitted to the Member States, as a condition for granting support to a producer group or organisation. In order to avoid providing operating aid and in order to maintain the incentive role of the support, the maximum duration of the support should be limited to five years from the date of recognition of the producer group or organisation on the basis of its business plan.
- (22) Agri-environment-climate payments should continue to play a prominent role in supporting the sustainable development of rural areas and in responding to society's increasing demands for environmental services. They should further encourage farmers and other land managers to serve society as a whole by introducing or continuing to apply agricultural practices that contribute to climate change mitigation and adaptation and that are compatible with the protection and improvement of the environment, the landscape and its features, natural resources, and the soil and genetic diversity. In that context the conservation of genetic resources in agriculture and the additional needs of farming systems that are of high nature value should be given specific attention. Payments should contribute to covering additional costs and income foregone resulting from the commitments undertaken and should only cover commitments going beyond relevant mandatory standards and requirements, in accordance with the "polluter pays principle". Member States should also ensure that payments to farmers do not lead to double funding under this Regulation and Regulation (EU) No 1307/2013. In many situations the synergies resulting from commitments undertaken jointly by a group of farmers multiply the environmental and climate benefit. However, joint actions involve additional

transaction costs which should be compensated adequately. In addition, in order to ensure that farmers and other land managers are in a position to correctly implement the commitments they have undertaken, Member States should endeavour to provide them with the required skills and knowledge.

Member States should maintain the level of efforts made during the 2007-2013 programming period and should be required to spend a minimum of 30 % of the total contribution from the EAFRD to each rural development programme on climate change mitigation and adaptation as well as environmental issues. Such spending should be made through agri-environment-climate and organic farming payments and payments to areas facing natural or other specific constraints, through payments for forestry, payments for Natura 2000 areas and climate and environment-related investment support.

- (23) Payments to farmers for the converting to, or maintaining, organic farming should encourage them to participate in such schemes thereby responding to the increasing demand of society for the use of environmentally friendly farm practices and for high standards of animal welfare. In order to increase synergy in biodiversity, benefits delivered by the organic farming measure, collective contracts or co-operation between farmers should be encouraged to cover larger, adjacent areas. In order to avoid a large-scale return by farmers to conventional farming support should be given to both conversion and maintenance measures. Payments should contribute to covering additional costs incurred and income foregone as a result of the commitment and should cover only commitments that go beyond relevant mandatory standards and requirements. Member States should also ensure that payments to farmers do not lead to double funding under this Regulation and Regulation (EU) No 1307/2013 (DP). In order to ensure the effective use of EAFRD resources, support should be limited to active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013.
- (24) Support should continue to be granted to farmers and forest holders to help address specific disadvantages in the areas concerned resulting from the implementation of Directive 2009/147/EC of the European Parliament and of the Council⁽¹⁾ and Council Directive

92/43/EEC⁽²⁾ and in order to contribute to the effective management of Natura 2000 sites. Support should also be made available to farmers to help address disadvantages in river basin areas resulting from the implementation of the Water Framework Directive. Support should be linked to specific requirements described in the rural development programme that go beyond relevant mandatory standards and requirements. Member States should also ensure that payments to farmers do not lead to double funding under this Regulation and Regulation (EU) No 1307/2013. Furthermore, the specific needs of Natura 2000 areas should be taken into account by Member States in the overall design of their rural development programmes.

- (25) Payments to farmers in mountain areas or in other areas facing natural or other specific constraints should, by encouraging continued use of agricultural land, contribute to maintaining the countryside as well as to maintaining and promoting sustainable farming systems. In order to ensure the efficiency of such support, payments should compensate farmers for income foregone and additional costs linked to the disadvantage of the area concerned. In order to ensure the effective use of EAFRD resources, support should be limited to active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013.
- (26) In order to ensure the efficient use of Union funds and equal treatment for farmers across the Union, mountain areas and areas facing natural or other specific constraints should be defined in accordance with objective criteria. In the case of areas facing natural constraints, those criteria should be bio-physical and underpinned by robust scientific evidence. Transitional arrangements should be adopted in order to facilitate the phasing-out of payments in areas that, as a result of the application of these criteria, will no longer be considered to be areas facing natural constraints.
- (27) Farmers should continue to be encouraged to adopt high standards of animal welfare by providing support for farmers who undertake to adopt standards of animal husbandry, which go beyond the relevant mandatory standards. In order to ensure the effective use of EAFRD resources, support should be limited to active farmers within the meaning of Article 9 of Regulation (EU) 1307/2013.

⁽¹⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁽²⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

(28) Payments should continue to be granted to forest holders who provide environment-friendly or climate-friendly forest conservation services by undertaking commitments to enhance biodiversity, preserve high-value forest ecosystems, improve their climate change mitigation and adaptation potential, and reinforce the protective value of forests with respect to soil erosion, maintenance of water resources and natural hazards. In that context, specific attention should be paid to the conservation and promotion of forest genetic resources. Payments should be granted for forest environmental commitments going beyond relevant mandatory standards established by national law.

(29) During the 2007-2013 programming period the only type of co-operation which was explicitly supported under rural development policy was co-operation for the development of new products, processes and technologies in the agriculture and food sector and the forestry sector. Support for that type of co-operation is still necessary but should be adapted in order to better meet the requirements of the knowledge economy. In that context, there should be the possibility for projects by a single operator to be financed under that measure, on condition that the results obtained are disseminated, thus achieving the aim of diffusing new practices, processes or products. In addition, it has become clear that supporting a much broader range of types of co-operation, with a wider range of beneficiaries, from smaller operators to larger ones, can contribute to achieving the objectives of rural development policy by helping operators in rural areas overcome the economic, environmental and other disadvantages of fragmentation. Therefore, that measure should be widened. Support to small operators for organising joint work processes and sharing facilities and resources should help them to be economically viable despite their small scale. Support for horizontal and vertical co-operation among actors in the supply chain, as well as for promotion activities in a local context, should catalyse the economically rational development of short supply chains, local markets and local food chains. Support for joint approaches to environmental projects and practices should help to produce greater and more consistent environmental and climate benefits than those which can be delivered by individual operators acting without reference to others (for example, through practices applied on larger, unbroken areas of land).

Support should be provided in various forms. Clusters and networks are particularly relevant to the sharing of expertise as well as the development of new and specialised expertise, services and products. Pilot projects are important tools for testing the commercial

applicability of technologies, techniques and practices in different contexts, and adapting them where necessary. Operational groups are a pivotal element of the European Innovation Partnership ("EIP") for agricultural productivity and sustainability. Another important tool lies in local development strategies operating outside the framework of LEADER local development – between public and private actors from rural and urban areas. Unlike under the LEADER approach, it is possible for such partnerships and strategies to be limited to one sector or to relatively specific development aims, including those mentioned above. Member States have the possibility to give priority to co-operation among entities involving primary producers. Inter-branch organisations should also be eligible for support under this measure. Such support should be limited to a period of seven years except for collective environmental and climate action in duly justified cases.

(30) Nowadays, farmers are exposed to increasing economic and environmental risks as a consequence of climate change and increased price volatility. In this context, the effective management of risks has an increased importance for farmers. Consequently, a risk management measure should be set up to assist farmers in addressing the most common risks faced by them. That measure should therefore help farmers to cover the premiums they pay for crop, animal and plant insurance as well as help with the setting up of mutual funds and the compensation paid by such funds to farmers for losses suffered as a result of adverse climatic events, the outbreak of animal or plant diseases, pest infestation or environmental incidents. It should also include an income stabilisation tool in the form of a mutual fund to support farmers facing a severe drop in their incomes. In order to ensure that farmers receive equal treatment across the Union, that competition is not distorted and that the international obligations of the Union are respected, specific conditions should be provided for the granting of support under these measures. In order to ensure the effective use of EAFRD resources, support should be limited to active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013.

(31) The LEADER approach for local development has, over a number of years, proven its effectiveness in promoting the development of rural areas by fully taking into account the multi-sectoral needs for endogenous rural development through its bottom-up approach. LEADER should therefore be continued in the future and its application should remain compulsory for rural development programmes at national and/or regional level.

- (32) Support for LEADER local development from the EAFRD should also cover inter-territorial co-operation projects between groups within a Member State or transnational co-operation projects between groups in several Member States or co-operation projects between groups in Member States and in third countries.
- (33) In order to enable partners in rural areas who do not yet apply LEADER to test and prepare for the design and implementation of a local development strategy, a "LEADER start-up kit" should also be financed. Support should not be conditional on the submission of a local development strategy.
- (34) Investments are common to many of the rural development measures under this Regulation and may relate to operations of a very diverse nature. In order to ensure clarity in the implementation of those operations certain common rules for all investments should be laid down. Those common rules should define the types of expenditure that may be considered to be investment expenditure and should ensure that only such investments that create new value in agriculture receive support. In order to facilitate the implementation of investment projects Member States should have the possibility to pay advances. To ensure the effectiveness, fairness and sustainable impact of EAFRD assistance, rules should be laid down to ensure that investments related to operations are durable and that EAFRD support is not used to distort competition.
- (35) It should be possible for the EAFRD to support investments in irrigation to provide economic and environmental benefits, provided that the sustainability of the irrigation concerned is ensured. Consequently, in every case, support should be granted only if a river basin management plan is in place in the area concerned as required by the Water Framework Directive, and if there is already water metering in place at the level of the investment or it is put in place as part of the investment. Investments in improvements to existing irrigation infrastructure or equipment should lead to a minimum gain in terms of water efficiency, expressed as a potential water saving. If the water body affected by the investment is under stress for reasons related to water quantity as set out in the analytical framework established by the Water Framework Directive, half of the gain in terms of water efficiency should be translated into a real reduction in water use at the level of the supported investment, in order to reduce the stress on the water body concerned. Certain cases should be set out in which it is not possible or necessary for the requirements of potential or effective water savings to apply, including those concerning investments in recycling or re-using water. In addition to supporting investments in improvements to existing equipment provision should be made for the EAFRD to support investments in new irrigation subject to the findings of an environmental analysis. With certain exceptions, support should, however, not be granted for new irrigation where the affected water body is already under stress, in view of the very high risk that granting support in such circumstances would worsen existing environmental problems.
- (36) Certain area-related measures under this Regulation require beneficiaries to undertake commitments for at least five years. During that period, it is possible that changes occur to the situation of either the holding or of the beneficiary. Rules should therefore be laid down in order to determine what should happen in such cases.
- (37) Certain measures under this Regulation make support conditional upon beneficiaries undertake commitments that go beyond a relevant baseline defined in terms of mandatory standards or requirements. In view of possible changes to the law during the period of the commitments resulting in the modification of the baseline, provision should be made the contracts concerned to be revised in order to ensure continued compliance with that condition.
- (38) In order to ensure that financial resources for rural development are used in the best possible way and to target measures under rural development programmes in accordance with the Union priorities for rural development and in order to guarantee equal treatment of applicants, Member States should establish selection criteria for the selection of projects. Exception to this rule should be made only for payments under agri-environmental-climate, organic farming, Natura 2000 and the Water Framework Directive, areas facing natural or other specific constraints, animal welfare, forest-environmental and climate services and risk management related measures. When applying the selection criteria the size of the operation should be taken into account in accordance with the principle of proportionality.
- (39) The EAFRD should support, through technical assistance, actions relating to the implementation of rural development programmes, including the costs related to the protection of symbols and abbreviations relating to Union quality schemes for participation in which support may be granted under this Regulation and costs of the Member States for the delimitation of areas facing natural constraints.

- (40) The networking of national networks, organisations and administrations involved in the various stages of programme implementation, organised in the context of the European network for rural development, has proven that it can play a very important role in improving the quality of rural development programmes by increasing the involvement of stakeholders in the governance of rural development as well as in informing the broader public of its benefits. It should, therefore, be financed as part of technical assistance at Union level. To take account of the specific needs of evaluation, a European evaluation capacity for rural development should be set up as part of the European network for rural development in order to bring together all actors involved and thereby to facilitate the exchange of expertise in the field.
- (41) The EIP for agricultural productivity and sustainability should contribute to the achievement of the Europe 2020 objectives of smart, sustainable and inclusive growth. It is important that it brings together all relevant actors at Union, national and regional levels, presenting new ideas to Member States on how to streamline, simplify and better coordinate existing instruments and initiatives and complement them with new actions where necessary.
- (42) In order to contribute to the achievement of the aims of the EIP for agricultural productivity and sustainability a EIP network should be set up in order to network operational groups, advisory services and researchers involved in the implementation of actions targeting innovation in agriculture. It should be financed as part of technical assistance at Union level.
- (43) Member States should reserve a portion of the total amount of each rural development programme devoted to technical assistance in order to finance the setting up and operation of a national rural network that brings together organisations and administrations involved in rural development, including the EIP, with the aim of increasing their involvement in the implementation of the programme and improving the quality of rural development programmes. To this end, national rural networks should prepare and implement an action plan.
- (44) Rural development programmes should provide for innovative actions promoting a resource-efficient, productive and low-emission agricultural sector, with the support of the EIP for agricultural productivity and sustainability. The EIP should aim to promote a faster and wider transposition of innovative solutions into practice. The EIP should create added value by enhancing the uptake and effectiveness of innovation-related instruments and enhancing synergies between them. The EIP should fill gaps by better linking research and practical farming.
- (45) The implementation of innovative projects in the context of the EIP for agricultural productivity and sustainability should be undertaken by operational groups that bring together farmers, forest managers, rural communities, researchers, NGOs advisors, businesses and other actors concerned by innovation in the agricultural sector. In order to ensure that the results of such projects benefit the sector as a whole, those results in the field of innovation and knowledge exchanges within the Union and with third countries should be disseminated.
- (46) Provision should be made for the determination of the total amount of Union support for rural development under this Regulation for the period from 1 January 2014 to 31 December 2020, in accordance with the Multi-annual Financial Framework for the period 2014 to 2020. The appropriations available should be indexed on a flat-rate basis for programming.
- (47) In order to facilitate the management of EAFRD funds, a single contribution rate for support from the EAFRD to rural development programming should be set in relation to public expenditure in the Member States. In order to take account of their particular importance or nature, specific contribution rates should be set in relation to certain types of operations. In order to mitigate the specific constraints resulting from the level of development the remoteness and insularity, an appropriate EAFRD contribution rate should be set for less developed regions, the outermost regions referred to in the TFEU and the smaller Aegean islands, as well as transition regions.
- (48) Member States should take all steps necessary to ensure that their rural development measures are verifiable and controllable, including putting in place adequate provisions. To that end, the Managing Authority and Paying Agency should provide an ex ante assessment and undertake to assess measures throughout the implementation of the programme. Measures that do not comply with that condition should be adjusted.
- (49) The Commission and Member States should take all steps necessary to ensure the sound management of rural development programmes. In this context the Commission should carry out adequate measures and controls and the Member States should take measures to guarantee the sound functioning of their management systems.

- (50) A single Managing Authority should be responsible for the management and implementation of each rural development programme. Its duties should be specified in this Regulation. The Managing Authority should be able to delegate part of its duties whilst retaining responsibility for the efficiency and correctness of management. Where a rural development programme contains thematic sub-programmes the Managing Authority should be able to designate another body to carry out the management and implementation of that sub-programme in relation to the financial allocations that have been identified for it in the programme whilst ensuring sound financial management of those sub-programmes. Where a Member State has more than one programme to manage, a coordination body can be set up to ensure consistency.
- (51) Each rural development programme should be subject to regular monitoring of the implementation of the programme and of progress towards the established targets of the programme. Since demonstrating and improving the impact and effectiveness of actions under the EAFRD also depends on appropriate evaluation during the preparation and implementation of a programme and its completion, a monitoring and evaluation system should be set up jointly by the Commission and the Member States with the purpose of demonstrating the progress and assessing the impact and efficiency of rural development policy implementation.
- (52) In order to ensure that information can be aggregated at Union level, a set of common indicators should form part of that monitoring and evaluation system. Key information on the implementation of rural development programmes should be recorded and maintained electronically as a means to facilitate data aggregation. Beneficiaries should therefore be required to provide the minimum necessary information that is needed for monitoring and evaluation.
- (53) The responsibility for monitoring the programme should be shared between the Managing Authority and a Monitoring Committee set up for that purpose. The Monitoring Committee should be responsible for the monitoring of the effectiveness of the implementation of the programme. To that end, its responsibilities should be specified.
- (54) The monitoring of the programme should involve the drawing up of an annual implementation report to be sent to the Commission.
- (55) In order to improve its quality and demonstrate its achievements, each rural development programme should be subject to evaluation.
- (56) Articles 107, 108 and 109 TFEU should apply to the support for the rural development measures under this Regulation. Nevertheless, given the specific characteristics of the agricultural sector, those TFEU provisions should not apply to rural development measures concerning operations falling within the scope of Article 42 TFEU, that are carried out under and in conformity with this Regulation or to payments made by Member States, intended to provide additional national financing for rural development operations for which Union support is granted and which fall within the scope of Article 42 TFEU.
- (57) Moreover, with a view to ensuring consistency with the rural development measures eligible for Union support and in order to simplify procedures, payments made by the Member States, intended to provide additional national financing for rural development operations for which Union support is granted and which fall within the scope of Article 42 TFEU, should be included in the rural development programme for assessment and approval in accordance with the provisions of this Regulation. In order to ensure that additional national financing is not implemented unless it has been authorised by the Commission, the Member State concerned should be precluded from putting its proposed additional financing for rural development into effect until it has been approved. Payments made by Member States intended to provide additional national financing for rural development operations for which Union support is granted and which fall outside the scope of Article 42 TFEU should be notified to the Commission pursuant to Article 108(3) TFEU, unless they fall under a regulation, adopted pursuant to Council Regulation 994/98⁽¹⁾, and Member States should be precluded from putting them into effect until that notification procedure has resulted in a final approval by the Commission.
- (58) In order to provide an efficient and secure exchange of data of common interest as well as to record, maintain and manage key information and report on monitoring and evaluation, an electronic information system should be established.

⁽¹⁾ Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid (OJ L 142, 14.5.1998, p. 1).

- (59) Union law on the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾ should apply.
- (60) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (61) That empowerment should cover: the conditions under which a legal person is considered to be a young farmer and the setting of a period of grace for the acquisition of skills; the duration and content of farm and forest exchange schemes and farm and forest visits. It should also cover: the specific Union schemes under Article 17(1)(a) and the characteristics of groups of producers and types of actions that may receive support under paragraph 2 of Article 17, as well as the setting of conditions to prevent distortion of competition to prevent discrimination against products and to exclude commercial brands from support.
- (62) In addition, that empowerment should cover: the minimum content of business plans and the criteria to be used by Member states for setting the thresholds referred to in Article 19(4); the definition and the minimum environmental requirements for afforestation and the creation of woodland; the conditions applicable to agri-environment-climate commitments to extensify livestock farming, rear local breeds in danger of being lost to farming or preserve plant genetic resources under threat of genetic erosion, as well as the definition of eligible operations for the conservation and for the sustainable use and development of genetic resources. It should also cover: the calculation method to be used in order to avoid double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013 for the agri-environment-climate, organic farming, measures under Natura 2000 and measures under the Water Framework Directive; the definition of the areas in which animal welfare commitments shall provide upgraded standards of production methods; the type of operations eligible for support under the conservation and promotion of forest genetic resources; the specification of the characteristics of pilot projects, clusters, networks, short supply chains and local markets that will be eligible for support under the co-operation measure, as well as the conditions for granting aid to the types of operation listed under that measure.
- (63) Furthermore, that empowerment should cover: the minimum and maximum duration of commercial loans to mutual funds under the risk management measure under this Regulation; the conditions under which costs related to leasing contracts or second hand equipment may be considered as eligible investment expenditure, as well as the definition of types of renewable energy infrastructure eligible for investment; the conditions applicable to conversion or adjustment of commitments under the measures referred to in Articles 28, 29, 33 and 34, as well as the definition of other situations in which reimbursement of the aid shall not be required. It should also cover: the review of the ceilings set out in Annex I; the conditions under which support approved by the Commission under Regulation (EC) No 1698/2005 may be integrated into support provided for under this Regulation, including for technical assistance and for the ex-post evaluations, in order to facilitate a smooth transition from the system established by Regulation (EC) No 1698/2005 to the system established by this Regulation. In order to take account of the Treaty of Accession of the Republic of Croatia those delegated acts should also cover, for Croatia, the transition from support for rural development under Council Regulation (EC) No 1085/2006 ⁽³⁾, where necessary.
- (64) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission, in relation to the content of rural development programmes and national frameworks, the approval of programmes and of modifications thereto, the procedures and timetables for approval of programmes, the procedures and timetables for the approval of modifications to programmes and to national frameworks, including their entry in to force and frequency of submission, the rules on payment methods for participants' costs for knowledge transfer and information actions, specific conditions for the implementation of rural development measures, the structure and operation of networks set up by this Regulation, the information and publicity requirements, the adoption of the monitoring and evaluation system and the rules for the operation of the information system, and the rules concerning the presentation of the annual

⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽³⁾ Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an instrument for pre-accession assistance (IPA) (OJ L 170, 29.6.2007, p. 1).

implementation reports. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council ⁽¹⁾.

- (65) The European Data Protection Supervisor was consulted and adopted an opinion on 14 December 2011 ⁽²⁾.
- (66) Due to the urgency of preparing the smooth implementation of the measures envisaged, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*.
- (67) The new support scheme provided for by this Regulation replaces the support scheme set up by Regulation (EC) No 1698/2005. Regulation (EC) No 1698/2005 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

TITLE I

OBJECTIVES AND STRATEGY

CHAPTER I

Subject matter and Definitions

Article 1

Subject matter

1. This Regulation lays down general rules governing Union support for rural development, financed by the European Agricultural Fund for Rural Development ("the EAFRD") and established by Regulation (EU) No 1306/2013. It sets out the objectives to which rural development policy is to contribute and the relevant Union priorities for rural development. It outlines the strategic context for rural development policy and defines the measures to be adopted in order to implement rural development policy. In addition, it lays down rules on programming, networking, management, monitoring and evaluation on the basis of responsibilities shared between the Member States and the Commission and rules to ensure coordination of the EAFRD with other Union instruments.

2. This Regulation complements the provisions of Part Two of Regulation (EU) No 1303/2013 of the European Parliament and the Council ⁽³⁾.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²⁾ OJ C 35, 9.2.2012 p. 1.

⁽³⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (see page 549 of this Official Journal).

Article 2

Definitions

1. For the purposes of this Regulation, the definitions of "programme", "operation", "beneficiary", "community-led local development strategy", "public expenditure", "SMEs", "completed operation" and "financial instruments" as laid down or referred to in Article 2 and of "less developed regions" and "transition regions" as laid down in points (a) and (b) in Article 90(2) of Regulation (EU) No 1303/2013 apply.

In addition, the following definitions shall apply:

- (a) "programming": means the process of organisation, decision making and allocation of financial resources in several stages, with the involvement of partners, intended to implement, on a multi-annual basis, joint action by the Union and the Member States to achieve the Union priorities for rural development.
- (b) "region" means a territorial unit corresponding to level 1 or 2 of the Nomenclature of territorial units for statistics (NUTS level 1 and 2) within the meaning of Regulation (EC) No 1059/2003 of the European Parliament and of the Council ⁽⁴⁾;
- (c) "measure" means a set of operations contributing to one or more of the Union priorities for rural development;
- (d) "support rate" means the rate of public contribution to an operation;
- (e) "transaction cost" means an additional cost linked to fulfilling a commitment, but not directly attributable to its implementation or not included in the costs or income foregone that are compensated directly; and which can be calculated on a standard cost basis;
- (f) "agricultural area" means any area taken up by arable land, permanent grassland and permanent pasture or permanent crops as defined in Article 4 of Regulation (EU) No 1307/2013;
- (g) "economic losses" means any additional cost incurred by a farmer as a result of exceptional measures taken by the farmer with the objective of reducing supply on the market concerned or any substantial loss of production;
- (h) "adverse climatic event" means weather conditions, such as frost, storms and hail, ice, heavy rain or severe drought, which can be assimilated to a natural disaster;

⁽⁴⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

- (i) "animal diseases" means diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health or in the Annex to Council Decision 2009/470/EC ⁽¹⁾;
- (j) "environmental incident" means a specific occurrence of pollution, contamination or degradation in the quality of the environment which is related to a specific event and is of limited geographical scope; but does not cover general environmental risks not connected with a specific event, such as climate change or atmospheric pollution;
- (k) "natural disaster": means a naturally occurring event of a biotic or abiotic nature that leads to important disturbances in agricultural production systems or forest structures, eventually causing important economic damage to the farming or forestry sectors;
- (l) "catastrophic event": means an unforeseen event of a biotic or abiotic nature caused by human action that leads to important disturbances in agricultural production systems or forest structures, eventually causing important economic damage to the farming or forestry sectors;
- (m) "short supply chain": means a supply chain involving a limited number of economic operators, committed to co-operation, local economic development, and close geographical and social relations between producers, processors and consumers;
- (n) "young farmer" means a person who is no more than 40 years of age at the moment of submitting the application, possesses adequate occupational skills and competence and is setting up for the first time in an agricultural holding as head of that holding;
- (o) "thematic objectives": means the thematic objectives defined in Article 9 of Regulation (EU) No 1303/2013.
- (p) "Common Strategic Framework" ("CSF"): means the Common Strategic Framework referred to in Article 10 of Regulation (EU) No 1303/2013;
- (q) "cluster" means a grouping of independent undertakings, including start-ups, small, medium and large undertakings as well as advisory bodies and/or research organisations - designed to stimulate economic/ innovative activity by promoting intensive interactions, the sharing of facilities and the exchange of knowledge and expertise, as well as contributing effectively to knowledge transfer, networking and information dissemination among the undertakings in the cluster;
- (r) "forest" means an area of land spanning more than 0,5 hectares with trees higher than 5 meters and a canopy

cover of more than 10 percent, or trees able to reach these thresholds in situ; and does not include land that is predominantly under agricultural or urban land use, subject to paragraph 2.

2. A Member State or region may choose to apply a forest definition, other than the one in point (r) of paragraph 1, based on existing national law or inventory system. The Member States or regions shall provide such definition in the rural development programme;

3. In order to ensure a coherent approach in the treatment of beneficiaries and to take into account the need for an adaptation period, as regards the definition of young farmer laid down in paragraph 1(n), the Commission shall be empowered to adopt delegated acts in accordance with Article 83 concerning the conditions under which a legal person may be considered to be a 'young farmer', and the setting of a grace period for the acquisition of occupational skills.

CHAPTER II

Mission, objectives and priorities

Article 3

Mission

The EAFRD shall contribute to the Europe 2020 Strategy by promoting sustainable rural development throughout the Union in a manner that complements the other instruments of the CAP, the cohesion policy and the common fisheries policy. It shall contribute to the development of a Union agricultural sector that is more territorially and environmentally balanced, climate-friendly and resilient and competitive and innovative. It shall also contribute to the development of rural territories.

Article 4

Objectives

Within the overall framework of the CAP, support for rural development, including for activities in the food and non-food sector and in forestry, shall contribute to achieving the following objectives:

- (a) fostering the competitiveness of agriculture;
- (b) ensuring the sustainable management of natural resources, and climate action;
- (c) achieving a balanced territorial development of rural economies and communities including the creation and maintenance of employment.

⁽¹⁾ Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field (OJ L 155, 18.6.2009, p. 30).

*Article 5***Union priorities for rural development**

The achievement of the objectives of rural development, which contribute to the Europe 2020 strategy for smart, sustainable and inclusive growth, shall be pursued through the following six Union priorities for rural development, which reflect the relevant Thematic Objectives of the CSF:

- (1) fostering knowledge transfer and innovation in agriculture, forestry, and rural areas with a focus on the following areas:
 - (a) fostering innovation, cooperation, and the development of the knowledge base in rural areas;
 - (b) strengthening the links between agriculture, food production and forestry and research and innovation, including for the purpose of improved environmental management and performance;
 - (c) fostering lifelong learning and vocational training in the agricultural and forestry sectors.
- (2) enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and the sustainable management of forests, with a focus on the following areas:
 - (a) improving the economic performance of all farms and facilitating farm restructuring and modernisation, notably with a view to increasing market participation and orientation as well as agricultural diversification;
 - (b) facilitating the entry of adequately skilled farmers into the agricultural sector and, in particular, generational renewal.
- (3) promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture, with a focus on the following areas:
 - (a) improving competitiveness of primary producers by better integrating them into the agri-food chain through quality schemes, adding value to agricultural products, promotion in local markets and short supply circuits, producer groups and organisations and inter-branch organisations;
 - (b) supporting farm risk prevention and management.
- (4) restoring, preserving and enhancing ecosystems related to agriculture and forestry, with a focus on the following areas:
 - (a) restoring, preserving and enhancing biodiversity, including in Natura 2000 areas, and in areas facing natural or other specific constraints, and high nature value farming, as well as the state of European landscapes;
 - (b) improving water management, including fertiliser and pesticide management;
 - (c) preventing soil erosion and improving soil management.
- (5) promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors, with a focus on the following areas:
 - (a) increasing efficiency in water use by agriculture;
 - (b) increasing efficiency in energy use in agriculture and food processing;
 - (c) facilitating the supply and use of renewable sources of energy, of by-products, wastes and residues and of other non food raw material, for the purposes of the bio-economy;
 - (d) reducing green house gas and ammonia emissions from agriculture;
 - (e) fostering carbon conservation and sequestration in agriculture and forestry;
- (6) promoting social inclusion, poverty reduction and economic development in rural areas, with a focus on the following areas:
 - (a) facilitating diversification, creation and development of small enterprises, as well as job creation;
 - (b) fostering local development in rural areas;
 - (c) enhancing the accessibility, use and quality of information and communication technologies (ICT) in rural areas.

All those priorities shall contribute to the cross-cutting objectives of innovation, environment and climate change mitigation and adaptation. Programmes may address fewer than six priorities if justified on the basis of the analysis of the situation in terms of strengths, weaknesses, opportunities and threats ("the SWOT") and the ex ante evaluation. At least four priorities shall be addressed by each programme. When a Member State submits a national programme and a set of regional programmes, the national programme may address fewer than four priorities.

Other focus areas may be included in programmes in order to pursue one of the priorities if justified and measurable.

TITLE II

PROGRAMMING

CHAPTER I

Programming content

Article 6

Rural development programmes

1. The EAFRD shall act in the Member States through rural development programmes. Those programmes shall implement a strategy to meet the Union priorities for rural development through a set of measures as defined in Title III. Support from the EAFRD shall be sought for the achievement of the objectives of rural development pursued through Union priorities.

2. A Member State may submit either a single programme for its entire territory or a set of regional programmes. Alternatively, in duly justified cases, it may submit a national programme and a set of regional programmes. If a Member State submits a national programme and a set of regional programmes, measures and/or types of operations shall be programmed either at national level or at regional level, and coherence between the strategies of the national and regional programmes shall be ensured.

3. Member States with regional programmes may also submit, for approval in accordance with Article 10(2), a national framework containing common elements for these programmes without a separate budgetary allocation.

National frameworks of Member States with regional programmes may also contain a table summarising, by region and by year, the total EAFRD contribution to the Member State concerned for the whole programming period.

Article 7

Thematic sub-programmes

1. With the aim of contributing to the achievement of the Union priorities for rural development, Member States may

include within their rural development programmes thematic sub-programmes that address specific needs. Such thematic sub-programmes may, inter alia, relate to:

- (a) young farmers;
- (b) small farms as referred to in the third subparagraph of Article 19(2);
- (c) mountain areas as referred to in Article 32(2);
- (d) short supply chains;
- (e) women in rural areas;
- (f) climate change mitigation and adaptation and biodiversity.

An indicative list of measures and types of operations of particular relevance to each thematic sub-programme is set out in Annex IV.

2. Thematic sub-programmes may also address specific needs relating to the restructuring of agricultural sectors with a significant impact on the development of a specific rural area.

3. The support rates laid down in Annex II may be increased by 10 additional percentage points for operations supported in the framework of thematic sub-programmes concerning small farms and short supply chains, climate change mitigation and adaptation and biodiversity. In the case of young farmers and mountain areas, the maximum support rates may be increased in accordance with Annex II. However, the maximum combined support rate shall not exceed 90 %.

Article 8

Content of rural development programmes

1. In addition to the elements referred to in Article 27 of Regulation (EU) No 1303/2013, each rural development programme shall include:

- (a) the ex ante evaluation referred to in Article 55 of Regulation (EU) No 1303/2013;
- (b) a SWOT analysis of the situation and an identification of the needs that have to be addressed in the geographical area covered by the programme.

The analysis shall be structured around the Union priorities for rural development. Specific needs concerning the environment, climate change mitigation and adaptation and innovation shall be assessed across Union priorities for rural development, in order to identify relevant responses in these three areas at the level of each priority;

- (c) a description of the strategy which demonstrates that:
- (i) appropriate targets are set for each of the focus areas of the Union priorities for rural development included in the programme, based on the common indicators referred to in Article 69 and, where necessary, on programme specific indicators;
 - (ii) relevant combinations of measures are selected in relation to each of the focus areas of the Union priorities for rural development included in the programme, based on a sound intervention logic supported by the ex ante evaluation referred to in point (a) and the analysis referred to in point (b);
 - (iii) the allocation of financial resources to the measures of the programme is justified and adequate to achieve the targets set;
 - (iv) specific needs linked with specific conditions at regional or sub-regional level are taken into account and concretely addressed through adequately designed combinations of measures or thematic sub-programmes;
 - (v) an appropriate approach towards innovation with a view to achieving the Union priorities for rural development, including the EIP for agricultural productivity and sustainability, towards the environment, including the specific needs of Natura 2000 areas, and towards climate change mitigation and adaptation is integrated into the programme;
 - (vi) measures have been taken to ensure the availability of sufficient advisory capacity on the regulatory requirements and on actions related to innovation;
- (d) for each ex ante conditionality, established in accordance with Article 19, and part II of Annex XI to Regulation (EU) No 1303/2013 for the general ex ante conditionalities, and in accordance with Annex V to this Regulation, an assessment of which of the ex ante conditionalities are applicable to the programme and which of them are fulfilled at the date of submission of the Partnership Agreement and the programme. Where the applicable ex ante conditionalities are not fulfilled, the programme shall contain a description of the actions to be taken, the bodies responsible and a timetable for such actions in accordance with the summary submitted in the Partnership Agreement.
- (e) a description of the performance framework established for the purpose of Article 21 of Regulation (EU) No 1303/2013;
- (f) a description of each of the measures selected;
- (g) the evaluation plan referred to in Article 56 of Regulation (EU) No 1303/2013. The Member States shall provide sufficient resources to address the needs which have been identified and to ensure proper monitoring and evaluation;
- (h) a financing plan comprising:
- (i) a table setting out, in accordance with Article 58(4), the total EAFRD contribution planned for each year. When applicable this table shall indicate separately within the total EAFRD contribution the appropriations provided for the less developed regions and the funds transferred to the EAFRD in application of Article 7(2) of Regulation (EU) No 1307/2013. The planned annual EAFRD contribution shall be compatible with the Multi-annual Financial Framework;
 - (ii) a table setting out, for each measure, for each type of operation with a specific EAFRD contribution rate and for technical assistance, the total Union contribution planned and the applicable EAFRD contribution rate. Where applicable, this table shall indicate separately the EAFRD contribution rate for less developed regions and for other regions;
- (i) an indicator plan, broken down into focus areas, comprising the targets referred to in point (i) of Article 8(1)(c) and the planned outputs and planned expenditure of each rural development measure selected in relation to a corresponding focus area;
- (j) where applicable, a table on additional national financing per measure in accordance with Article 82;
- (k) where applicable, the list of aid schemes falling under Article 81(1) to be used for the implementation of the programmes;
- (l) information on the complementarity with measures financed by the other common agricultural policy instruments, and by the European Structural and Investment Funds ("ESI");
- (m) programme implementing arrangements including:
- (i) the designation by the Member State of all authorities referred to in Article 65(2) and, for information, a summary description of the management and control structure;
 - (ii) a description of the monitoring and evaluation procedures, as well as the composition of the Monitoring Committee;
 - (iii) the provisions to ensure that the programme is publicised, including through the national rural network referred to in Article 54;
 - (iv) a description of the approach laying down principles with regard to the establishment of selection criteria for operations and local development strategies that takes into account relevant targets; in this context Member States may provide for priority to be given to SMEs linked to the agriculture and forestry sector.

- (v) in relation to local development, where applicable, a description of the mechanisms to ensure coherence between activities envisaged under the local development strategies, the "Cooperation" measure referred to in Article 35, and the "Basic services and village renewal in rural areas" measure referred to in Article 20 including urban-rural links;
- (n) the actions taken to involve the partners referred to in Article 5 of Regulation (EU) No 1303/2013 and a summary of the results of the consultation of the partners;
- (o) where applicable, the structure of the national rural network as referred to in Article 54(3), and provisions for its management, which would constitute the basis for its annual actions plans.

2. Where thematic sub-programmes are included in a rural development programme, each sub-programme shall include:

- (a) a specific analysis of the situation based on SWOT methodology and an identification of the needs that are to be addressed by the sub-programme;
- (b) specific targets at sub-programme level and a selection of measures, based on a thorough definition of the intervention logic of the sub-programme, including an assessment of the expected contribution of the measures chosen to achieve the targets;
- (c) a separate specific indicator plan, with planned outputs and planned expenditure for each rural development measure selected in relation to a corresponding focus area.

3. The Commission shall adopt implementing acts laying down rules for the presentation of the elements described in paragraphs 1 and 2 in rural development programmes and rules for the content of national frameworks referred to in Article 6(3). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

CHAPTER II

Preparation, approval and modification of rural development programmes

Article 9

Ex ante conditionalities

In addition to the general ex ante conditionalities, referred to in part II of Annex XI to Regulation (EU) No 1303/2013, the ex ante conditionalities referred to in Annex V to this Regulation shall apply to the EAFRD programming, if relevant and applicable to the specific objectives pursued within the priorities of the programme.

Article 10

Approval of rural development programmes

1. Member States shall submit to the Commission a proposal for each rural development programme, containing the information referred to in Article 8.
2. Each rural development programme shall be approved by the Commission by means of an implementing act

Article 11

Amendment of rural development programmes

Requests by Member States to amend programmes shall be approved in accordance with the following procedures:

- (a) The Commission shall decide, by means of implementing acts, on requests to amend programmes that concern one or more of the following:
- (i) a change in the programme strategy through a change of more than 50 % in the quantified target linked to a focus area;
 - (ii) a change in the EAFRD contribution rate of one or more measures;
 - (iii) a change of the entire Union contribution or its annual distribution at programme level;
- (b) The Commission shall approve, by means of implementing acts, requests to amend the programme in all other cases. These shall include, in particular:
- (i) the introduction or withdrawal of measures or types of operations;
 - (ii) changes in the description of measures, including changes of eligibility conditions;
 - (iii) a transfer of funds between measures implemented under different EAFRD contribution rates;

However, for the purposes of points (b)(i) and (ii), and point (b)(iii) where the transfer of funds concerns less than 20 % of the allocation to a measure and less than 5 % of the total EAFRD contribution to the programme, the approval shall be deemed to be given, if the Commission has not taken a decision on the request after a period of 42 working days from the receipt of the request. That period shall not include the period starting on the day following the date on which the Commission has sent its observations to the Member State and ending on the day that the Member State responded to the observations.

- (c) The approval of the Commission shall not be required for corrections of a purely clerical or editorial nature that do not affect the implementation of the policy and the measures. Member States shall inform the Commission of such amendments.

Article 12

Rules on procedures and timetables

The Commission shall adopt implementing acts, laying down rules on procedures and timetables for:

- (a) the approval of rural development programmes and national frameworks;
- (b) the submission and approval of proposals for amendments to rural development programmes and proposals for amendments to national frameworks, including their entry into force and the frequency with which they are to be submitted during the programming period.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

TITLE III

RURAL DEVELOPMENT SUPPORT

CHAPTER I

Measures

Article 13

Measures

Each rural development measure shall be programmed to contribute specifically to the achievement of one or more Union priorities for rural development. An indicative list of measures of particular relevance to the Union priorities is set out in Annex VI.

Article 14

Knowledge transfer and information actions

1. Support under this measure shall cover vocational training and skills acquisition actions, demonstration activities and information actions. Vocational training and skills acquisition actions may include training courses, workshops and coaching.

Support may also cover short-term farm and forest management exchanges as well as farm and forest visits.

2. Support under this measure shall be for the benefit of persons engaged in the agricultural, food and forestry sector, land managers and other economic actors which are SMEs operating in rural areas.

The training or other knowledge transfer and information action provider shall be the beneficiary of the support.

3. Support under this measure shall not include courses of instruction or training, which form part of normal education programmes or systems at secondary or higher levels.

Bodies providing knowledge transfer and information services shall have the appropriate capacities in the form of staff qualifications and regular training to carry out this task.

4. Eligible costs under this measure shall be the costs of organising and delivering the knowledge transfer or information action. In the case of demonstration projects, support may also cover relevant investment costs. Costs for travel, accommodation and per diem expenses of participants as well as the cost of the replacement of farmers shall also be eligible for support. All costs identified under this paragraph shall be paid to the beneficiary.

5. In order to ensure that farm and forest exchange schemes and visits are clearly demarcated in relation to similar actions under other Union schemes, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 concerning the duration and content of farm and forest exchange schemes and farm and forest visits.

6. The Commission shall adopt implementing acts laying down the rules on payment modalities for participants' costs, including through the use of vouchers or other similar forms.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

Article 15

Advisory services, farm management and farm relief services

1. Support under this measure shall be granted in order to:

- (a) help farmers, young farmers as defined in this Regulation, forest holders, other land managers and SMEs in rural areas benefit from the use of advisory services for the improvement of the economic and environmental performance as well as the climate friendliness and resilience of their holding, enterprise and/or investment;

(b) promote the setting up of farm management, farm relief and farm advisory services, as well as forestry advisory services, including the Farm Advisory System referred to in Articles 12 to 14 of Regulation (EU) No 1306/2013;

(c) promote the training of advisors.

2. The beneficiary of support provided in paragraph 1(a) and (c) shall be the provider of advice or training. Support under paragraph 1(b) shall be granted to the authority or body selected to set up the farm management, farm relief, farm advisory or forestry advisory service.

3. The authorities or bodies selected to provide advice shall have appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields in which they advise. The beneficiaries under this measure shall be chosen through calls for tenders. The selection procedure shall be governed by public procurement law and shall be open to both public and private bodies. It shall be objective and shall exclude candidates with conflicts of interest.

When providing advice, advisory services shall respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013.

4. Advice to the individual farmers, young farmers as defined in this Regulation and other land managers shall be linked to at least one Union priority for rural development and shall cover as a minimum one of the following elements:

(a) obligations at farm level deriving from the statutory management requirements and/or standards for good agricultural and environmental conditions provided for in Chapter I of Title VI of Regulation (EU) No 1306/2013;

(b) where applicable, the agricultural practices beneficial for the climate and the environment as laid down in Chapter 3 of Title III of Regulation (EU) No 1307/2013 and the maintenance of the agricultural area as referred to in point (c) of Article 4(1) of Regulation (EU) No 1307/2013;

(c) measures at farm level provided for in rural development programmes aiming at farm modernisation, competitiveness building, sectoral integration, innovation and market orientation, as well as the promotion of entrepreneurship;

(d) requirements as defined by Member States for implementing Article 11(3) of the Water Framework Directive;

(e) requirements as defined by Member States, for implementing Article 55 of Regulation (EC) No 1107/2009, in particular compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC; or

(f) where relevant, occupational safety standards or safety standards linked to the farm;

(g) specific advice for farmers setting up for the first time.

Advice may also cover other issues and in particular the information related to climate change mitigation and adaptation, biodiversity and the protection of water as laid down in Annex I to Regulation (EU) No 1307/2013 or issues linked to the economic and environmental performance of the agricultural holding, including competitiveness aspects. This may include advice for the development of short supply chains, organic farming and health aspects of animal husbandry.

5. Advice to forest holders shall cover, as a minimum, the relevant obligations under Directives 92/43/EEC, 2009/147/EC and the Water Framework Directive. It may also cover issues linked to the economic and environmental performance of the forest holding.

6. Advice to SMEs may cover issues linked to the economic and environmental performance of the enterprise.

7. Where duly justified and appropriate, advice may be provided partly in a group, while taking into account the situations of the individual user of advisory services.

8. Support under points (a) and (c) of paragraph 1 shall be limited to the maximum amounts laid down in Annex II. Support under point (b) of paragraph 1 shall be degressive over a maximum period of five years from setting up.

Article 16

Quality schemes for agricultural products, and foodstuffs

1. Support under this measure shall cover new participation by farmers and groups of farmers in:

(a) quality schemes established under the following Regulations and provisions:

- (i) Regulation (EU) 1151/2012 of the European Parliament and of the Council ⁽¹⁾;
 - (ii) Council Regulation (EC) No 834/2007 ⁽²⁾;
 - (iii) Regulation (EC) No 110/2008 of the European Parliament and of the Council ⁽³⁾;
 - (iv) Council Regulation (EEC) No 1601/91 ⁽⁴⁾;
 - (v) Part II, Title II, Chapter I, Section 2 of Council Regulation (EU) No 1308/2013 as concerns wine.
- (b) quality schemes, including farm certification schemes, for agricultural products, cotton or foodstuffs, recognised by the Member States as complying with the following criteria:
- (i) the specificity of the final product under such schemes is derived from clear obligations to guarantee any of the following:
 - specific product characteristics,
 - specific farming or production methods, or
 - a quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;
 - (ii) the scheme is open to all producers;
 - (iii) the scheme involves binding product specifications and compliance with those specifications is verified by public authorities or by an independent inspection body;
 - (iv) the scheme is transparent and assures complete traceability of products; or

(c) voluntary agricultural product certification schemes recognised by the Member States as meeting the Union best practice guidelines for the operation of voluntary certification schemes relating to agricultural products and foodstuffs.

2. Support under this measure may also cover costs arising from information and promotion activities implemented by groups of producers in the internal market, concerning products covered by a quality scheme receiving support in accordance with paragraph 1.

3. Support under paragraph 1 shall be granted as an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from participation in supported schemes, for a maximum duration of five years.

For the purposes of this paragraph, "fixed costs" means the costs incurred for entering a supported quality scheme and the annual contribution for participating in that scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the scheme.

For the purposes of this Article, "farmer" means active farmer within the meaning of Article 9 of Regulation (EU) No 1307/2013.

4. Support shall be limited to the maximum support rate and amount laid down in Annex II.

5. In order to take into account new Union law that may affect support under this measure and in order to ensure consistency with other Union instruments on promotion of agricultural measures and prevent distortion of competition, the Commission shall be empowered to adopt delegated acts, in accordance with Article 83 concerning, the specific Union schemes to be covered by point (a) of paragraph 1 and the characteristics of groups of producers and the types of actions that may receive support under paragraph 2, the setting of conditions to prevent discrimination against certain products; and the setting of conditions on the basis of which commercial brands are to be excluded from support.

Article 17

Investments in physical assets

1. Support under this measure shall cover tangible and/or intangible investments which:

- (a) improve the overall performance and sustainability of the agricultural holding;
- (b) concern the processing, marketing and/or development of agricultural products covered by Annex I to the Treaty or cotton, except fishery products; the output of the production process may be a product not covered by that Annex;

⁽¹⁾ Regulation (EU) 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

⁽²⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

⁽³⁾ Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

⁽⁴⁾ Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails (OJ L 149, 14.6.1991, p. 1).

(c) concern infrastructure related to the development, modernisation or adaptation of agriculture and forestry, including access to farm and forest land, land consolidation and improvement, and the supply and saving of energy and water; or

(d) are non-productive investments linked to the achievement of agri-environment-climate objectives as pursued under this regulation, including biodiversity conservation status of species and habitat as well as enhancing the public amenity value of a Natura 2000 area or other high nature value systems to be defined in the programme.

2. Support under point (a) of paragraph 1 shall be granted to farmers or groups of farmers.

In the case of investments to support farm restructuring, Member States shall target the support to farms in accordance with the SWOT analysis carried out in relation to the Union priority for rural development "enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and sustainable management of forests".

3. Support under points (a) and (b) of paragraph 1 shall be limited to the maximum support rates laid down in Annex II. Those maximum rates may be increased for young farmers, for collective investments, including those linked to a merger of Producer Organisations, and for integrated projects involving support under more than one measure, for investments in areas facing natural and other specific constraints as referred to in Article 32, for investments linked to operations under Articles 28 and 29 and for operations supported in the framework of the EIP for agricultural productivity and sustainability in accordance with the support rates laid down in Annex II. However, the maximum combined support rate may not exceed 90 %.

4. Support under points (c) and (d) of paragraph 1 shall be subject to the support rates laid down in Annex II.

5. Support may be granted to young farmers setting up for the first time in an agricultural holding as head of the holding in respect of investments to comply with Union standards applying to agricultural production, including occupational safety. Such support may be provided for a maximum of 24 months from the date of setting up.

6. Where Union law imposes new requirements on farmers support may be granted for investments to comply with those

requirements for a maximum of 12 months from the date on which they become mandatory for the agricultural holding.

Article 18

Restoring agricultural production potential damaged by natural disasters and catastrophic events and introduction of appropriate prevention actions

1. Support under this measure shall cover:

(a) investments in preventive actions aimed at reducing the consequences of probable natural disasters, adverse climatic events and catastrophic events;

(b) investments for the restoration of agricultural land and production potential damaged by natural disasters, adverse climatic events and catastrophic events.

2. Support shall be granted to farmers or groups of farmers. Support may also be granted to public entities where a link between the investment undertaken by such entities and agricultural production potential is established.

3. Support under point (b) of paragraph 1 shall be subject to the formal recognition by the competent public authorities of Member States that a natural disaster has occurred and that this disaster or measures adopted in accordance with Council Directive 2000/29/EC⁽¹⁾ to eradicate or contain a plant disease or pest has caused the destruction of at least 30 % of the relevant agricultural potential.

4. No support under this measure shall be granted for loss of income resulting from the natural disaster or catastrophic event.

Member States shall ensure that overcompensation as a result of the combination of this measure and other national or Union support instruments or private insurance schemes is avoided.

5. Support under point (a) of paragraph 1 shall be limited to the maximum support rates laid down in Annex II.

Article 19

Farm and business development

1. Support under this measure shall cover:

(a) business start-up aid for:

(i) young farmers;

(ii) non-agricultural activities in rural areas;

⁽¹⁾ Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

- (iii) the development of small farms;
 - (b) investments in creation and development of non-agricultural activities;
 - (c) annual payments or one-off payments for farmers eligible for the small farmers scheme established by Title V of Regulation (EU) No 1307/2013 ("the small farmers scheme") who permanently transfer their holding to another farmer;
2. Support under point (a)(i) of paragraph 1 shall be granted to young farmers.

Support under point (a)(ii) of paragraph 1 shall be granted to farmers or members of a farm household who diversify into non-agricultural activities and to micro- and small- enterprises and natural persons in rural areas.

Support under point (a)(iii) of paragraph 1 shall be granted to small farms as defined by Member States.

Support under point (b) of paragraph 1 shall be granted to micro- and small enterprises and natural persons in rural areas, as well as to farmers or members of a farm household.

Support under point (c) of paragraph 1 shall be granted to farmers eligible to participate in the small farmers scheme who, at the time of submitting their application for support, have been so eligible for at least one year and who undertake to permanently transfer their entire holding and the corresponding payment entitlements to another farmer. Support shall be paid from the date of the transfer until 31 December 2020 or calculated in respect of that period and paid in the form of a one-off payment.

3. Any natural or legal person or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, may be considered to be a member of a farm household, with the exception of farm workers. Where a legal person or a group of legal persons is considered to be a member of the farm household, that member must exercise an agricultural activity on the farm at the time of the support application.

4. Support under point (a) of paragraph 1 shall be conditional on the submission of a business plan. Implementation of the business plan must start within nine months from the date of the decision granting the aid.

For young farmers receiving support under point (a)(i) of paragraph 1, the business plan shall provide that the young farmer complies with Article 9 of Regulation (EU) No 1307/2013, regarding active farmers within 18 months from the date of setting up.

Member States shall define upper and lower thresholds for allowing agricultural holdings access to support under points (a)(i) and (a)(iii) of paragraph 1. The lower threshold for support under point (a)(i) of paragraph 1 shall be higher than the upper threshold for support under point (a)(iii) of paragraph 1. Support shall be limited to holdings coming under the definition of micro and small enterprises.

5. Support under point (a) of paragraph 1 shall be paid in at least two instalments over a period of maximum five years. Instalments may be degressive. The payment of the last instalment, under points (a)(i) and (a)(ii) of paragraph 1 shall be conditional upon the correct implementation of the business plan.

6. The maximum amount of support under point (a) of paragraph 1 is laid down in Annex II. Member States shall define the amount of support under points (a)(i) and (a)(ii) of paragraph 1 also taking into account the socio-economic situation of the programme area.

7. Support under point (c) of paragraph 1 shall be equal to 120 % of the annual payment that the beneficiary is eligible to receive under the small farmers scheme.

8. In order to ensure the efficient and effective use of EAFRD resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 laying down the minimum content of business plans and the criteria to be used by Member states for setting the thresholds referred to in paragraph 4 of this Article.

Article 20

Basic services and village renewal in rural areas

1. Support under this measure shall cover, in particular:
- (a) the drawing up and updating of plans for the development of municipalities and villages in rural areas and their basic services and of protection and management plans relating to Natura 2000 sites and other areas of high nature value;
 - (b) investments in the creation, improvement or expansion of all types of small scale infrastructure, including investments in renewable energy and energy saving;
 - (c) broadband infrastructure, including its creation, improvement and expansion, passive broadband infrastructure and provision of access to broadband and public e-government solutions;
 - (d) investments in the setting up, improvement or expansion of local basic services for the rural population, including leisure and culture, and the related infrastructure;

- (e) investments for public use in recreational infrastructure, tourist information and small scale tourism infrastructure;
- (f) studies and investments associated with the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites, including related socio-economic aspects, as well as environmental awareness actions;
- (g) investments targeting the relocation of activities and conversion of buildings or other facilities located within or close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the settlement.

2. Support under this measure shall only concern small-scale infrastructure, as defined by each Member State in the programme. However, rural development programmes may provide for specific derogations from this rule for investments in broadband and renewable energy. In this case, clear criteria ensuring complementarity with support under other Union instruments shall be provided.

3. Investments under paragraph 1 shall be eligible for support where the relevant operations are implemented in accordance with plans for the development of municipalities and villages in rural areas and their basic services, where such plans exist and shall be consistent with any relevant local development strategy.

Article 21

Investments in forest area development and improvement of the viability of forests

1. Support under this measure shall concern:
 - (a) afforestation and creation of woodland;
 - (b) establishment of agroforestry systems;
 - (c) prevention and restoration of damage to forests from forest fires, natural disasters and catastrophic events, including pest and disease outbreaks, and climate related threats;
 - (d) investments improving the resilience and environmental value as well as the mitigation potential of forest ecosystems;
 - (e) investments in forestry technologies and in the processing, the mobilising and the marketing of forest products.

2. Limitations on ownership of forests provided for in Articles 22 to 26 shall not apply to the tropical or subtropical forests and to the wooded areas of the territories of the Azores,

Madeira, the Canary islands, the smaller Aegean islands within the meaning of Council Regulation (EEC) No 2019/93⁽¹⁾ and the French overseas departments.

For holdings above a certain size, to be determined by the Member States in the programme, support shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the Protection of Forests in Europe of 1993.

Article 22

Afforestation and creation of woodland

1. Support under point (a) of Article 21(1) shall be granted to public and private land-holders and their associations and shall cover the costs of establishment and an annual premium per hectare to cover the costs of agricultural income foregone and maintenance, including early and late cleanings, for a maximum period of twelve years. In the case of state-owned land, support may only be granted if the body managing such land is a private body or a municipality.

Support for afforestation of land owned by public authorities or for fast growing trees shall cover only the costs of establishment.

2. Both agricultural and non-agricultural land shall be eligible. Species planted shall be adapted to the environmental and climatic conditions of the area and shall comply with minimum environmental requirements. No support shall be granted for the planting of trees for short rotation coppicing, Christmas trees or fast growing trees for energy production. In areas where afforestation is made difficult by severe pedo-climatic conditions support may be provided for planting other perennial woody species such as shrubs or bushes suitable to the local conditions.

3. In order to ensure that afforestation of agricultural land is in line with the aims of environmental policy, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 concerning the definition of the minimum environmental requirements referred to in paragraph 2 of this Article.

Article 23

Establishment of agroforestry systems

1. Support under point (b) of Article 21(1) shall be granted to private land-holders, municipalities and their associations and shall cover the costs of establishment and an annual premium per hectare to cover the costs of maintenance for a maximum period of five years.

⁽¹⁾ Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products (OJ L 184, 27.7.1993, p. 1).

2. For the purposes of this Article, agroforestry systems means land use systems in which trees are grown in combination with agriculture on the same land. The minimum and maximum number of trees per hectare shall be determined by the Member States taking account of local pedo-climatic and environmental conditions, forestry species and the need to ensure sustainable agricultural use of the land.

3. Support shall be limited to the maximum support rate laid down in Annex II.

Article 24

Prevention and restoration of damage to forests from forest fires and natural disasters and catastrophic events

1. Support under point (c) Article 21(1) shall be granted to private and public forest-holders and other private law and public bodies and their associations and shall cover the costs for:

- (a) the establishment of protective infrastructure. In the case of firebreaks, support may also cover aid contributing to maintenance costs. No support shall be granted to agricultural related activities in areas covered by agri-environment commitments;
- (b) local, small scale prevention activities against fire or other natural hazards; including the use of grazing animals;
- (c) establishing and improving forest fire, pest and diseases monitoring facilities and communication equipment; and
- (d) restoring forest potential damaged from fires and other natural disasters including pests, diseases as well as catastrophic events and climate change related events.

2. In the case of preventive actions concerning pests and diseases, the risk of a relevant disaster occurrence must be supported by scientific evidence and acknowledged by scientific public organisations. Where relevant, the list of species of organisms harmful to plants which may cause a disaster must be provided in the programme.

Eligible operations shall be consistent with the forest protection plan established by the Member States. For holdings above a certain size, to be determined by the Member States in the programme, support shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the Protection of Forests in Europe of 1993 detailing the preventive objectives.

Forest areas classified as medium to high forest fire risk according to the forest protection plan established by the Member States shall be eligible for support relating to forest fire prevention.

3. Support under point (d) of paragraph 1 shall be subject to the formal recognition by the competent public authorities of Member States that a natural disaster has occurred and that that disaster, or measures adopted in accordance with Directive 2000/29/EC to eradicate or contain a plant disease or pest has caused the destruction of at least 20 % of the relevant forest potential.

4. No support under this measure shall be granted for loss of income resulting from the natural disaster.

Member States shall ensure that overcompensation as a result of the combination of this measure and other national or Union support instruments or private insurance schemes is avoided.

Article 25

Investments improving the resilience and environmental value of forest ecosystems

1. Support under point (d) of Article 21(1) shall be granted to natural persons, private and public forest-holders, and other private law and public bodies and their associations.

2. Investments shall be aimed at the achievement of commitments for environmental aims, for the provision of ecosystem services and/or for the enhancement of the public amenity value of forest and wooded land in the area concerned or the improvement of the climate change mitigation potential of ecosystems, without excluding economic benefits in the long term.

Article 26

Investments in forestry technologies and in processing, in mobilising and in the marketing of forest products

1. Support under point (e) of Article 21(1) shall be granted to private forest-holders, municipalities and their associations and to SMEs for investments enhancing forestry potential or relating to processing, mobilising and marketing adding value to forest products. In the territories of the Azores, Madeira, the Canary islands, the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93 and the French overseas departments support may also be granted to enterprises that are not SMEs.

2. Investments related to the improvement of the economic value of forests shall be justified in relation to expected improvements to forests on one or more holdings and may include investments for soil-friendly and resource -friendly harvesting machinery and practices.

3. Investments related to the use of wood as a raw material or energy source shall be limited to all working operations prior to industrial processing.

4. Support shall be limited to the maximum support rates laid down in Annex II.

Article 27

Setting -up of producer groups and organisations

1. Support under this measure shall be granted in order to facilitate the setting up of producer groups and organisations in the agriculture and forestry sectors for the purpose of:

- (a) adapting the production and output of producers who are members of such groups or organisations to market requirements;
- (b) jointly placing goods on the market, including preparation for sale, centralisation of sales and supply to bulk buyers;
- (c) establishing common rules on production information, with particular regard to harvesting and availability; and
- (d) other activities that may be carried out by producer groups and organisations, such as the development of business and marketing skills and the organisation and facilitation of the innovation processes.

2. Support shall be granted to producer groups and organisations which are officially recognised by a Member State's competent authority on the basis of a business plan. It shall be limited to producer groups and organisations that are SMEs.

Member States shall verify that the objectives of the business plan have been reached within five years after recognition of the producer group or organisation.

3. The support shall be paid on the basis of a business plan as a flat rate aid in annual instalments for no more than five years following the date on which the producer group or organisation was recognised, and shall be degressive. It shall be calculated on the basis of the annual marketed production of the group or organisation. Member States shall pay the last instalment only after having verified the correct implementation of the business plan.

In the first year Member States may pay support to the producer group or organisation calculated on the basis of the average annual value of the marketed production of its members over the three years before they entered the group or organisation. In the case of producer groups and organisations in the forestry sector, support shall be calculated on

the basis of the average marketed production of the members of the group or organisation over the last five years before the recognition, excluding the highest and the lowest value.

4. Support shall be limited to the maximum rates and amounts laid down in Annex II.

5. Member States may continue support for setting up of producer groups even after they have been recognised as producer organisations under the conditions of Regulation (EU) No 1308/2013 ⁽¹⁾.

Article 28

Agri-environment-climate

1. Member States shall make support under this measure available throughout their territories, in accordance with their national, regional or local specific needs and priorities. This measure shall aim to preserve and promote the necessary changes to agricultural practices that make a positive contribution to the environment and climate. Its inclusion in rural development programmes shall be compulsory at national and/or regional level.

2. Agri-environment-climate payments shall be granted to farmers, groups of farmers or groups of farmers and other land-managers who undertake, on a voluntary basis, to carry out operations consisting of one or more agri-environment-climate commitments on agricultural land to be defined by Member States, including but not limited to the agricultural area defined under Article 2 of this Regulation. Where duly justified to achieve environmental objectives, agri-environment-climate payments may be granted to other land-managers or groups of other land-managers.

3. Agri-environment-climate payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013, and relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. All such mandatory requirements shall be identified in the programme.

4. Member States shall endeavour to ensure that persons undertaking to carry out operations under this measure are provided with the knowledge and information required to implement such operations. They may do so through, inter alia, commitment-related expert advice and/or by making support under this measure conditional on obtaining relevant training.

⁽¹⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (see page 671 of the Official Journal).

5. Commitments under this measure shall be undertaken for a period of five to seven years. However, where necessary in order to achieve or maintain the environmental benefits sought, Member States may determine a longer period in their rural development programmes for particular types of commitments, including by means of providing for their annual extension after the termination of the initial period. For new commitments directly following the commitment performed in the initial period, Member States may determine a shorter period in their rural development programmes.

6. Payments shall be granted annually and shall compensate beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. Where necessary, they may also cover transaction costs up to a value of 20 % of the premium paid for the agri-environment-climate commitments. Where commitments are undertaken by groups of farmers or groups of farmers and other land managers, the maximum level shall be 30 %.

When calculating the payments referred to in the first sub-paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1306/2013.

In duly justified cases for operations concerning environmental conservation, support may be granted at a flat-rate or as a one-off payment per unit for commitments to renounce commercial use of areas, calculated on the basis of additional costs incurred and income foregone.

7. Where required in order to ensure the efficient application of the measure, Member States may use the procedure referred to in Article 49(3) for the selection of beneficiaries.

8. Support shall be limited to the maximum amounts laid down in Annex II.

No support under this measure may be granted for commitments that are covered under the organic farming measure.

9. Support may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture for operations not covered by the provisions under paragraphs 1 to 8. Such commitments may be carried out by beneficiaries other than those referred to in paragraph 2.

10. In order to ensure that agri-environment-climate commitments are defined in accordance with the Union priorities for rural development, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 concerning the following:

- (a) the conditions applicable to commitments to extensify livestock farming;
- (b) the conditions applicable to commitments to rear local breeds that are in danger of being lost to farming or to preserve plant genetic resources that are under threat of genetic erosion, and
- (c) the definition of eligible operations under paragraph 9.

11. In order to ensure that double funding, as referred to in the second subparagraph of paragraph 6 is excluded, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 laying down the calculation method to be used, including in the case of equivalent measures under Article 43 of Regulation (EU) No 1306/2013.

Article 29

Organic farming

1. Support under this measure shall be granted, per hectare of agricultural area, to farmers or groups of farmers who undertake, on a voluntary basis, to convert to or maintain organic farming practices and methods as defined in Regulation (EC) No 834/2007 and who are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013.

2. Support shall only be granted for commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No DP/2013, relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. All such requirements shall be identified in the programme.

3. Commitments under this measure shall be made for a period of five to seven years. Where support is granted for conversion to organic farming Member States may determine a shorter initial period corresponding to the period of conversion. Where support is granted for the maintenance of organic farming, Member States may provide in their rural development programmes for annual extension after the termination of the initial period. For new commitments concerning maintenance that directly follow the commitment performed in the initial period, Member States may determine a shorter period in their rural development programmes.

4. Payments shall be granted annually and shall compensate beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. Where necessary they may also cover transaction costs to a value of up to 20 % of the premium paid for the commitments. Where commitments are undertaken by groups of farmers, the maximum level shall be 30 %.

When calculating the payments referred to in the first sub-paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013.

5. Support shall be limited to the maximum amounts laid down in Annex II.

6. In order to ensure that double funding, as referred to in the second subparagraph of paragraph 4 is excluded, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 laying down the calculation method to be used.

Article 30

Natura 2000 and Water Framework Directive payments

1. Support under this measure shall be granted annually per hectare of agricultural area or per hectare of forest in order to compensate beneficiaries for additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of Directives 92/43/EEC and Directive 2009/147/EC and the Water Framework Directive.

When calculating support under this measure, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013.

2. Support shall be granted to farmers and to private forest holders and associations of private forest holders. In duly justified cases it may also be granted to other land managers.

3. Support to farmers, linked to Directives 92/43/EEC and 2009/147/EC shall only be granted in relation to disadvantages resulting from requirements that go beyond the good agricultural and environmental condition provided for in Article 94 and Annex II of Council Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of point (c) of Article 4(1) of Regulation (EU) No 1307/2013.

4. Support to farmers, linked to the Water Framework Directive shall only be granted in relation to specific requirements that:

- (a) were introduced by the Water Framework Directive, are in accordance with the programmes of measures of the river basin management plans for the purpose of achieving the environmental objectives of that Directive and go beyond the measures required to implement other Union law for the protection of water;
- (b) go beyond the statutory management requirements and the good agricultural and environmental condition provided for in Chapter I of Title VI of Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013;

(c) go beyond the level of protection of the Union law existing at the time the Water Framework Directive was adopted as laid down in Article 4(9) of that Directive; and

(d) impose major changes in type of land use, and/or major restrictions in farming practice resulting in a significant loss of income.

5. The requirements referred to in paragraphs 3 and 4 shall be identified in the programme.

6. The following areas shall be eligible for payments:

- (a) Natura 2000 agricultural and forest areas designated pursuant to Directives 92/43/EEC and 2009/147/EC;
- (b) other delimited nature protection areas with environmental restrictions applicable to farming or forests which contribute to the implementation of Article 10 of Directive 92/43/EEC, provided that, per rural development programme, those areas do not exceed 5 % of the designated Natura 2000 areas covered by its territorial scope;
- (c) agricultural areas included in river basin management plans according to the Water Framework Directive.

7. Support shall be limited to the maximum amounts laid down in Annex II.

8. In order to ensure that double funding, as referred to in the second subparagraph of paragraph 1 is excluded, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 laying down the calculation method to be used.

Article 31

Payments to areas facing natural or other specific constraints

1. Payments to farmers in mountain areas and other areas facing natural or other specific constraints shall be granted annually per hectare of agricultural area in order to compensate farmers for all or part of the additional costs and income foregone related to the constraints for agricultural production in the area concerned.

Additional costs and income foregone shall be calculated in comparison to areas which are not affected by natural or other specific constraints, taking into account payments pursuant to Chapter 3 of Title III of Regulation (EU) No 1307/2013.

When calculating additional costs and income foregone, Member States may, where duly justified, differentiate the level of payment taking into account:

- the severity of the identified permanent constraint affecting farming activities;
- the farming system.

2. Payments shall be granted to farmers who undertake to pursue their farming activity in the areas designated pursuant to Article 32 and are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013.

3. Payments shall be fixed between the minimum and maximum amount laid down in Annex II. These payments may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes.

4. Member States shall provide for degressivity of payments above a threshold level of area per holding, to be defined in the programme, except if the grant covers only the minimum payment per hectare per year as laid down in Annex II.

In the case of a legal person, or a group of natural or legal persons, Member States may apply the degressivity of payments at the level of the members of these legal persons or groups on condition that:

- (a) national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of head of holding, in particular as regards their economic, social and tax status; and
- (b) those individual members have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

5. In addition to the payments provided for in paragraph 2, Member States may grant payments under this measure between 2014 and 2020 to beneficiaries in areas which were eligible under Article 36(a)(ii) of Regulation (EC) No 1698/2005 during the 2007-2013 programming period. For beneficiaries in areas that are no longer eligible following the new delimitation referred to in Article 32(3), those payments shall be degressive over a maximum period of four years. That period shall start on the date that the delimitation in accordance with Article 32(3) is completed and at the latest in 2018. Those payments shall start at no more than 80 % of the average payment fixed in the programme for the programming period 2007-2013 in accordance with Article 36(a)(ii) of Regulation (EC) No 1698/2005, and shall end in 2020 at the latest at no more than 20 %. When the application of degressivity results

in the level of the payment reaching EUR 25, the Member State can continue payments at this level until the phasing out period is completed.

Following completion of the delimitation, beneficiaries in the areas that remain eligible shall receive full payment under this measure.

Article 32

Designation of areas facing natural and other specific constraints

1. Member States shall, on the basis of paragraphs 2, 3 and 4, designate areas eligible for payments provided for in Article 31 under the following categories:

- (a) mountain areas;
- (b) areas, other than mountain areas, facing significant natural constraints; and
- (c) other areas affected by specific constraints.

2. In order to be eligible for payments under Article 31, mountain areas shall be characterized by a considerable limitation of the possibilities for using the land and by an appreciable increase in production costs due to:

- (a) the existence, because of altitude, of very difficult climatic conditions, the effect of which is to substantially shorten the growing season;
- (b) at a lower altitude, the presence over the greater part of the area in question of slopes too steep for the use of machinery or requiring the use of very expensive special equipment, or a combination of these two factors, where the constraints resulting from each taken separately are less acute but the combination of the two gives rise to an equivalent constraints.

Areas north of the 62nd parallel and certain adjacent areas shall be considered to be mountain areas.

3. In order to be eligible for payments under Article 31, areas, other than mountain areas, shall be considered to be facing significant natural constraints if, at least 60 % of the agricultural area meets at least one of the criteria listed in Annex III at the threshold value indicated.

Compliance with those conditions shall be ensured at the level of local administrative units ("LAU 2" level) or at the level of a clearly delineated local unit which covers a single clear contiguous geographical area with a definable economic and administrative identity.

When delimiting the areas concerned by this paragraph, Member States shall carry out a fine-tuning exercise, based on objective criteria, with the purpose of excluding areas in which significant natural constraints, referred to in the first subparagraph have been documented but have been overcome by investments or by, economic activity, or by evidence of normal land productivity, or in which production methods or farming systems have offset the income loss or added costs referred to in Article 31(1).

4. Areas other than those referred to in paragraphs 2 and 3 shall be eligible for payments under Article 31 if they are affected by specific constraints and if it is necessary for land management to be continued in order to conserve or improve the environment, to maintain the countryside, to preserve the tourist potential of the area or to protect the coastline.

Areas affected by specific constraints shall comprise farming areas within which the natural production conditions are similar and the total extent of which does not exceed 10 % of the area of the Member State concerned.

In addition, areas may also be eligible for payments under this paragraph, where:

- at least 60 % of the agricultural area meets at least two of the criteria listed in Annex III each within a margin of not more than 20 % of the threshold value indicated, or
- at least 60 % of the agricultural area is composed of areas meeting at least one of the criteria listed in Annex III at the threshold value indicated, and areas meeting at least two of the criteria listed in Annex III each within a margin of not more than 20 % of the threshold value indicated.

Compliance with those conditions shall be ensured at LAU2 level or at the level of a clearly delineated local unit which covers a single clear contiguous geographical area with a definable economic and administrative identity. When delimiting areas concerned by this subparagraph, Member States shall undertake a fine-tuning exercise as described in Article 32(3). Areas considered eligible pursuant to this subparagraph, shall be taken into account for calculating the 10 % limit referred to in the second subparagraph.

By way of derogation, the first sub-paragraph shall not apply to Member States the entire territory of which was considered as an area facing specific handicaps under Regulations (EC) No 1698/2005 and (EC) No 1257/1999.

5. Member States shall attach to their rural development programmes:

- (a) the existing or amended delimitation pursuant to paragraphs 2 and 4;
- (b) the new delimitation of the areas referred to in paragraph 3.

Article 33

Animal welfare

1. Animal welfare payments under this measure shall be granted to farmers who undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments and who are active farmers within the meaning of Article 9 of Regulation (EU) No 1307/2013.

2. Animal welfare payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013 and other relevant mandatory requirements. These relevant requirements shall be identified in the programme.

Those commitments shall be undertaken for a renewable period of one to seven years.

3. The payments shall be granted annually and shall compensate farmers for all or part of the additional costs and income foregone resulting from the commitment made. Where necessary, they may also cover transaction costs to the value of up to 20 % of the premium paid for the animal welfare commitments.

Support shall be limited to the maximum amount laid down in Annex II.

4. In order to ensure that animal welfare commitments are in accordance with the overall Union policy in this field, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 concerning the definition of the areas in which animal welfare commitments are to provide upgraded standards of production methods.

Article 34

Forest-environmental and climate services and forest conservation

1. Support under this measure shall be granted per hectare of forest to public and private forest-holders and other private law and public bodies and their associations who undertake, on a voluntary basis, to carry out operations consisting of one or more forest-environment and climate commitments. In the case of state owned forests, support may only be granted if the body managing such a forest is a private body or a municipality.

For forest holdings above a certain threshold to be determined by Member States in their rural development programmes, support under paragraph 1 shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the Protection of Forests in Europe of 1993.

2. Payments shall cover only those commitments going beyond the relevant mandatory requirements established by the national forestry act or other relevant national law. All such requirements shall be identified in the programme.

Commitments shall be undertaken for a period of between five and seven years. However, where necessary and duly justified, Member States may determine a longer period in their rural development programmes for particular types of commitments.

3. Payments shall compensate beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. Where it is necessary they may also cover transaction costs to a value of up to 20 % of the premium paid for the forest-environment commitments. Support shall be limited to the maximum amount laid down in Annex II.

In duly justified cases for operations concerning environmental conservation, support may be granted as a flat-rate or one-off payment per unit for commitments to renounce commercial use of trees and forests, calculated on basis of additional costs incurred and income foregone.

4. Support may be provided to public and private entities for the conservation and promotion of forest genetic resources for operations not covered under paragraphs 1, 2 and 3.

5. In order to ensure the efficient use of EAFRD budgetary resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 concerning the types of operations eligible for support under paragraph 4 of this Article.

Article 35

Co-operation

1. Support under this measure shall be granted in order to promote forms of co-operation involving at least two entities and in particular:

- (a) co-operation approaches among different actors in the Union agriculture sector, forestry sector and food chain and other actors that contribute to achieving the objectives and priorities of rural development policy, including producer groups, cooperatives and inter-branch organisations;
- (b) the creation of clusters and networks;
- (c) the establishment and operation of operational groups of the EIP for agricultural productivity and sustainability as referred to in Article 56.

2. Co-operation under paragraph 1 shall relate, in particular, to the following:

- (a) pilot projects;
- (b) the development of new products, practices, processes and technologies in the agriculture, food and forestry sectors;
- (c) co-operation among small operators in organising joint work processes and sharing facilities and resources and for the development and/or marketing of tourism services relating to rural tourism;
- (d) horizontal and vertical co-operation among supply chain actors for the establishment and the development of short supply chains and local markets;
- (e) promotion activities in a local context relating to the development of short supply chains and local markets;
- (f) joint action undertaken with a view to mitigating or adapting to climate change;
- (g) joint approaches to environmental projects and ongoing environmental practices, including efficient water management, the use of renewable energy and the preservation of agricultural landscapes;
- (h) horizontal and vertical co-operation among supply chain actors in the sustainable provision of biomass for use in food and energy production and industrial processes;
- (i) implementation, in particular by groups of public and private partners other than those defined in point (b) of Article 32(2) of Regulation (EU) No 1303/2013, of local development strategies other than those defined in Article 2(19) of Regulation (EU) 1303/2013 addressing one or more of the Union priorities for rural development;
- (j) drawing up of forest management plans or equivalent instruments;
- (k) diversification of farming activities into activities concerning health care, social integration, community-supported agriculture and education about the environment and food.

3. Support under point (b) of paragraph 1 shall be granted only to newly formed clusters and networks and those commencing an activity that is new to them.

Support for operations under points (a) and (b) of paragraph 2 may be granted also to individual actors where this possibility is provided for in the rural development programme.

4. The results of pilot projects under point (a) of paragraph 2 and operations under point (b) of paragraph 2 carried out by individual actors as provided for in paragraph 3 shall be disseminated.

5. The following costs, linked to the forms of co-operation referred to in paragraph 1 shall be eligible for support under this measure:

- (a) the cost of studies of the area concerned, of feasibility studies, and of drawing up a business plan or a forest management plan or equivalent or a local development strategy other than the one referred to in Article 33 of Regulation (EU) No 1303/2013;
- (b) the cost of animation of the area concerned in order to make feasible a collective territorial project or a project to be carried out by an operational group of the EIP for Agricultural Productivity and Sustainability as referred to in Article 56. In the case of clusters, animation may also concern the organisation of training, networking between members and the recruitment of new members;
- (c) the running costs of the co-operation;
- (d) the direct costs of specific projects linked to the implementation of a business plan an environmental plan, a forest management plan or equivalent, a local development strategy other than the one referred to in Article 33 of Regulation (EU) No 1303/2013 or direct costs of other actions targeted towards innovation, including testing;
- (e) the cost of promotion activities.

6. Where a business plan or an environmental plan or a forest management plan or equivalent or a development strategy is implemented, Member States may grant the aid either as a global amount covering the costs of co-operation and the costs of the projects implemented or cover only the costs of the co-operation and use funds from other measures or other Union Funds for project implementation.

Where support is paid as a global amount and the project implemented is of a type covered under another measure of this Regulation, the relevant maximum amount or rate of support shall apply.

7. Co-operation among actors located in different regions or Member States shall also be eligible for support.

8. Support shall be limited to a maximum period of seven years except for collective environmental action in duly justified cases.

9. Co-operation under this measure may be combined with projects supported by Union funds other than the EAFRD in the same territory. Member States shall ensure that overcompensation as a result of the combination of this measure with other national or Union support instruments is avoided.

10. In order to ensure the efficient use of EAFRD budgetary resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 83, concerning the further specification of the characteristics of pilot projects, clusters, networks, short supply chains and local markets that will be eligible for support, as well as concerning the conditions for granting aid to the types of operation listed in paragraph 2 of this Article.

Article 36

Risk management

1. Support under this measure shall cover:

- (a) financial contributions to premiums for crop, animal and plant insurance against economic losses to farmers caused by adverse climatic events, animal or plant diseases, pest infestation, or an environmental incident;
- (b) financial contributions to mutual funds to pay financial compensations to farmers, for economic losses caused by adverse climatic events or by the outbreak of an animal or plant disease or pest infestation or an environmental incident;
- (c) an income stabilisation tool, in the form of financial contributions to mutual funds, providing compensation to farmers for a severe drop in their income.

2. For the purposes of this article, "farmer" means active farmer within the meaning of Article 9 of Regulation (EU) No 1307/2013.

3. For the purpose of points (b) and (c) of paragraph 1, 'mutual fund' means a scheme accredited by the Member State in accordance with its national law for affiliated farmers to insure themselves, whereby compensation payments are made to affiliated farmers for economic losses caused by the outbreak of adverse climatic events or an animal or plant disease or pest infestation or an environmental incident, or for a severe drop in their income.

4. Member States shall ensure that overcompensation as a result of the combination of this measure with other national or Union support instruments or private insurance schemes is avoided.

5. In order to ensure the efficient use of EAFRD budgetary resource, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 concerning the minimum and maximum duration of the commercial loans to mutual funds referred to in point (b) of Article 38(3) and Article 39(4).

The Commission shall present a report on the implementation of this Article to the European Parliament and the Council by 31 December 2018.

Article 37

Crop, animal, and plant insurance

1. Support under point (a) of Article 36(1) shall only be granted for insurance contracts which cover for loss caused by an adverse climatic event, or by an animal or plant disease, or a pest infestation, or an environmental incident or a measure adopted in accordance with Directive 2000/29/EC to eradicate or contain a plant disease, or pest which destroys more than 30 % of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry. Indexes may be used in order to calculate the annual production of the farmer. The calculation method used shall permit the determination of the actual loss of an individual farmer in a given year.

The measurement of the extent of the loss caused may be tailored to the specific characteristics of each type of product using:

- (a) biological indexes (quantity of biomass loss) or equivalent yield loss indexes established at farm, local, regional or national level, or
- (b) weather indexes (including quantity of rainfall and temperature) established at local, regional or national level.

2. The occurrence of an adverse climatic event or the outbreak of an animal or plant disease or pest infestation or an environmental incident has to be formally recognised as such by the competent authority of the Member State concerned.

Member States may, where appropriate, establish in advance criteria on the basis of which such formal recognition shall be deemed to be granted.

3. As regards animal diseases, financial compensation under point (a) of Article 36(1) may only be granted in respect of diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health or in the Annex to Decision 2009/470/EC.

4. Insurance payments shall compensate for not more than the total of the cost of replacing the losses referred to in point (a) of Article 36(1) and shall not require or specify the type or quantity of future production.

Member States may limit the amount of the premium that is eligible for support by applying appropriate ceilings.

5. Support shall be limited to the maximum rate laid down in Annex II.

Article 38

Mutual funds for adverse climatic events, animal and plant diseases, pest infestations and environmental incidents

1. In order to be eligible for support the mutual fund concerned shall:

- (a) be accredited by the competent authority in accordance with national law;
- (b) have a transparent policy towards payments into and withdrawals from the fund;
- (c) have clear rules attributing responsibilities for any debts incurred.

2. Member States shall define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments and the eligibility of farmers in the event of crisis, as well as for the administration and monitoring of compliance with these rules. Member States shall ensure that the fund arrangements provide for penalties in case of negligence on the part of the farmer.

The occurrence of incidents mentioned in point (b) of Article 36(1) must be formally recognised as such by the competent authority of the Member State concerned.

3. The financial contributions referred to in Article 36(1)(b) may only relate to:

- (a) the administrative costs of setting up the mutual fund, spread over a maximum of three years in a degressive manner;
- (b) the amounts paid by the mutual fund as financial compensation to farmers. In addition, the financial contribution may relate to interest on commercial loans taken out by the mutual fund for the purpose of paying the financial compensation to farmers in case of crisis.

Support under point (b) of Article 36(1) shall only be granted to cover for loss caused by the outbreak of adverse climatic events, an animal or plant disease, a pest infestation, or a measure adopted in accordance with Directive 2000/29/EC to eradicate or contain a plant disease or pest or an environmental incident, which destroy more than 30 % of the average annual production of the farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry. Indexes may be used

in order to calculate the annual production of the farmer. The calculation method used shall permit the determination of the actual loss of an individual farmer in a given year.

No contribution by public funds shall be made to initial capital stock.

4. As regards animal diseases, financial compensation under point (b) of Article 36(1) may be granted in respect of diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health or in the Annex to Decision 2009/470/EC.

5. Support shall be limited to the maximum support rate laid down in Annex II.

Member States may limit the costs that are eligible for support by applying:

- (a) ceilings per fund;
- (b) appropriate per unit ceilings.

Article 39

Income stabilisation tool

1. Support under point (c) of Article 36(1) shall only be granted where the drop of income exceeds 30 % of the average annual income of the individual farmer in the preceding three-year period or a three-year average based on the preceding five-year period excluding the highest and lowest entry. Income for the purposes of point (c) of Article 36(1) shall refer to the sum of revenues the farmer receives from the market, including any form of public support, deducting input costs. Payments by the mutual fund to farmers shall compensate for less than 70 % of the income lost in the year the producer becomes eligible to receive this assistance.

2. In order to be eligible for support the mutual fund concerned shall:

- (a) be accredited by the competent authority in accordance with national law;
- (b) have a transparent policy towards payments into and withdrawals from the fund;
- (c) have clear rules attributing responsibilities for any debts incurred.

3. Member States shall define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments to farmers in the event of crisis and for the administration and monitoring of compliance with these rules. Member States shall ensure that the fund arrangements provide for penalties in case of negligence on the part of the farmer.

4. The financial contributions referred to in point (c) of Article 36(1) may only relate to:

- (a) the administrative costs of setting up the mutual fund, spread over a maximum of three years in a degressive manner;
- (b) the amounts paid by the mutual fund as financial compensation to farmers. In addition, the financial contribution may relate to interest on commercial loans taken out by the mutual fund for the purpose of paying the financial compensation to farmers in case of crisis. No contribution by public funds shall be made to initial capital stock.

5. Support shall be limited to the maximum rate laid down in Annex II.

Article 40

Financing of complementary national direct payments for Croatia

1. Support may be granted to farmers eligible for complementary national direct payments under Article 19 of Regulation (EU) No 1307/2013. The conditions laid down in that Article shall also apply to the support to be granted under this Article.

2. The support granted to a farmer in respect of the years 2014, 2015 and 2016 shall not exceed the difference between:

- (a) the level of direct payments applicable in Croatia for the year concerned in accordance with Article 17 of Regulation (EU) No 1307/2013; and
- (b) 45 % of the corresponding level of the direct payments as applied from 2022.

3. The Union contribution to support granted under this Article in Croatia in respect of the years 2014, 2015 and 2016 shall not exceed 20 % of its respective total annual EAFRD allocation.

4. The EAFRD contribution rate for the complements to direct payments shall not exceed 80 %.

Article 41

Rules on the implementation of the measures

The Commission shall adopt implementing acts, laying down rules on the implementation of the measures in this section concerning:

- (a) procedures for selection of authorities or bodies offering farm and forestry advisory services, farm management or farm relief services and the degressivity of the aid under the advisory services measure referred to in Article 15;

- (b) the assessment by the Member State of the progress of the business plan, payment options as well as modalities for access to other measures for young farmers under the farm and business development measure referred to in Article 19;
- (c) conversion to units other than those used in Annex II, and conversion rates of animals to livestock units (LU) under the measures referred to in Articles 28, 29, 33 and 34;
- (d) the possibility of using standard assumptions of additional costs and income foregone under the measures of Articles 28 to 31, 33 and 34 and criteria for its calculation;
- (e) calculation of the amount of support where an operation is eligible for support under more than one measures.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

LEADER

Article 42

LEADER local action groups

1. In addition to the tasks referred to in Article 34 of Regulation (EU) No 1303/2013 local action groups may also perform additional tasks delegated to them by the Managing Authority and/or the paying agency.
2. Local action groups may request the payment of an advance from the competent paying agency if such possibility is provided for in the rural development programme. The amount of the advances shall not exceed 50 % of the public support related to the running and animation costs.

Article 43

LEADER start-up kit

Support for LEADER local development may also include a "LEADER start-up kit" for local communities who did not implement LEADER in the 2007-2013 programming period. The "LEADER start-up kit" shall consist of support for capacity building and small pilot projects. Support under the "LEADER start-up kit" shall not be conditional on the submission of a LEADER local development strategy.

Article 44

LEADER co-operation activities

1. The support referred to in point (c) of Article 35(1) of Regulation (EU) No 1303/2013 shall be granted to
 - (a) co-operation projects within a Member State (inter-territorial co-operation) or co-operation projects between territories in several Member States or with territories in third countries (transnational co-operation).

- (b) preparatory technical support for inter-territorial and transnational co-operation projects, on condition that local action groups are able to demonstrate that they are envisaging the implementation of a concrete project.

2. Apart from other local action groups, the partners of a local action group under the EAFRD may be:

- (a) a group of local public and private partners in a rural territory that is implementing a local development strategy within or outside the Union;
- (b) a group of local public and private partners in a non-rural territory that is implementing a local development strategy.

3. In cases where co-operation projects are not selected by the local action groups, Member States shall establish a system of ongoing application.

They shall make public the national or regional administrative procedures concerning the selection of transnational co-operation projects and a list of eligible costs at the latest two years after the date of approval of their rural development programmes.

Approval of co-operation projects by the competent authority shall take place no later than four months after the date of submission of the project application.

4. Member States shall communicate to the Commission the approved transnational co-operation projects.

CHAPTER II

Common provisions for several measures

Article 45

Investments

1. In order to be eligible for EAFRD support, investment operations shall be preceded by an assessment of the expected environmental impact in accordance with law specific to that kind of investment where the investment is likely to have negative effects on the environment.
2. Expenditure that is eligible for EAFRD support shall be limited to:
 - (a) the construction, acquisition, including leasing, or improvement of immovable property;
 - (b) the purchase or lease purchase of new machinery and equipment up to the market value of the asset;

(c) general costs linked to expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies. Feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is made;

(d) the following intangible investments: acquisition or development of computer software and acquisitions of patents, licenses, copyrights, trademarks;

(e) the costs of establishing forest management plans and their equivalent.

3. In the case of agricultural investments, the purchase of agricultural production rights, payment entitlements, animals, annual plants and their planting shall not be eligible for investment support. However, in case of the restoration of agricultural production potential damaged by natural disasters or catastrophic events, in accordance with point (b) of Article 18(1), expenditure for the purchase of animals may be eligible expenditure.

4. Beneficiaries of investment related support may request the payment of an advance of up to 50 % of the public aid related to the investment from the competent paying agencies if that option is included in the rural development programme.

5. Working capital that is ancillary to, and linked to a new investment in the agriculture or forestry sector, which receives EAFRD support through a financial instrument established in accordance with Article 37 of Regulation (EU) No 1303/2013, may be eligible expenditure. Such eligible expenditure shall not exceed 30 % of the total amount of the eligible expenditure for the investment. The relevant request shall be duly substantiated.

6. In order to take account of the special characteristics of particular types of investments, the Commission shall be empowered to adopt delegated acts in accordance with Article 83, laying down the conditions under which other costs connected with leasing contracts, second hand equipment may be considered to be eligible expenditure and specifying the types of renewable energy infrastructure that are to be eligible for support.

Article 46

Investments in irrigation

1. Without prejudice to Article 45 of this Regulation, in the case of irrigation in new and existing irrigated areas, only investments that fulfil the conditions in this Article shall be considered as eligible expenditure.

2. A river basin management plan, as required under the terms of the Water Framework Directive, shall have been

notified to the Commission for the entire area in which the investment is to take place, as well as in any other areas whose environment may be affected by the investment. The measures taking effect under the river basin management plan in accordance with Article 11 of the Water Framework Directive and of relevance to the agricultural sector shall have been specified in the relevant programme of measures.

3. Water metering enabling measurement of water use at the level of the supported investment shall be in place or shall be put in place as part of the investment.

4. An investment in an improvement to an existing irrigation installation or element of irrigation infrastructure shall be eligible only if it is assessed ex ante as offering potential water savings of a minimum of between 5 % and 25 % according to the technical parameters of the existing installation or infrastructure.

If the investment affects bodies of ground- or surface water whose status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity:

(a) the investment shall ensure an effective reduction in water use, at the level of the investment, amounting to at least 50 % of the potential water saving made possible by the investment;

(b) in the case of an investment on a single agricultural holding, it shall also result in a reduction to the holding's total water use amounting to at least 50 % of the potential water saving made possible at the level of the investment. The total water use of the holding shall include water sold by the holding.

None of the conditions in paragraph 4 shall apply to an investment in an existing installation which affects only energy efficiency or to an investment in the creation of a reservoir or to an investment in the use of recycled water which does not affect a body of ground or surface water.

5. An investment resulting in a net increase of the irrigated area affecting a given body of ground or surface water shall be eligible only if:

(a) the status of the water body has not been identified as less than good in the relevant river basin management plan for reasons related to water quantity; and

(b) an environmental analysis shows that there will be no significant negative environmental impact from the investment; such an environmental impact analysis shall be either carried out by or approved by the competent authority and may also refer to groups of holdings.

Areas which are not irrigated but in which an irrigation installation was active in the recent past, to be established and justified in the programme, may be considered as irrigated areas for the purpose of determining the net increase of the irrigated area.

6. By way of derogation from point (a) of paragraph 5 investments resulting in a net increase of the irrigated area may still be eligible if:

- (a) the investment is combined with an investment in an existing irrigation installation or element of irrigation infrastructure assessed *ex ante* as offering potential water savings of a minimum of between 5 % and 25 % according to the technical parameters of the existing installation or infrastructure and
- (b) the investment ensures an effective reduction in water use, at the level of the investment as a whole, amounting to at least 50 % of the potential water saving made possible by the investment in the existing irrigation installation or element of infrastructure.

Furthermore, by way of derogation, the condition in point (a) of paragraph 5 shall not apply to investments in the establishment of a new irrigation installation supplied with water from an existing reservoir approved by the competent authorities before 31 October 2013 if the following conditions are met:

- the reservoir in question is identified in the relevant river basin management plan and is subject to the control requirements set out in article 11(3)(e) of the Water Framework Directive;
- on 31 October 2013, there was in force either a maximum limit on total abstractions from the reservoir or a minimum required level of flow in water bodies affected by the reservoir;
- that maximum limit or minimum required level of flow complies with the conditions set out in Article 4 of the Water Framework Directive; and
- the investment in question does not result in abstractions beyond the maximum limit in force on 31 October 2013 or result in a reduction of the level of flow in affected water bodies below the minimum required level in force on 31 October 2013.

Article 47

Rules for area related payments

1. The number of hectares to which a commitment pursuant to Articles 28, 29 and 34 applies may vary from year to year where:

- (a) this possibility is provided for in the rural development programme;

(b) the commitment in question does not apply to fixed parcels; and

(c) the achievement of the commitment's objective is not jeopardised.

2. Where all or part of the land under commitment or the entire holding is transferred to another person during the period of that commitment, the commitment, or part thereof corresponding to the land transferred, may be taken over for the remainder of the period by that other person or may expire and reimbursement shall not be required in respect of the period during which the commitment was effective.

3. Where a beneficiary is unable to continue to comply with commitments given because the holding or part of the holding is re-parcelled or is the subject of public land consolidation measures or land consolidation measures approved by the competent public authorities, Member States shall take the measures necessary to allow the commitments to be adapted to the new situation of the holding. If such adaptation proves impossible, the commitment shall expire and reimbursement shall not be required in respect of the period during which the commitment was effective.

4. Reimbursement of the aid received shall not be required in cases of force majeure and exceptional circumstances as referred to in Article 2 of Regulation (EU) No 1306/2013.

5. Paragraph 2, as regards cases of transfer of the entire holding, and paragraph 4 shall also apply to commitments under Article 33.

6. In order to ensure the efficient implementation of area related measures and secure the financial interests of the Union, the Commission shall be empowered to adopt delegated acts in accordance with Article 83 laying down conditions applicable to conversion or adjustment of commitments under the measures referred to in Articles 28, 29, 33 and 34 and, specifying other situations in which reimbursement of the aid shall not be required.

Article 48

Revision clause

A revision clause shall be provided for operations undertaken pursuant to Articles 28, 29, 33 and 34 in order to ensure their adjustment in the case of amendments to the relevant mandatory standards, requirements or obligations referred to in those Articles beyond which the commitments have to go. The revision clause shall also cover adjustments needed to avoid double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013 in the case of amendments to those practices.

Operations undertaken pursuant to Articles 28, 29, 33 and 34 which extend beyond the current programming period shall contain a revision clause in order to allow for their adjustment to the legal framework of the following programming period.

If such adjustment is not accepted by the beneficiary, the commitment shall expire and reimbursement shall not be required in respect of the period during which the commitment was effective.

Article 49

Selection of operations

1. Without prejudice to point (d) of Article 34(3) of Regulation (EU) No 1303/2013, the Managing Authority of the rural development programme shall define selection criteria for operations following consultation with the Monitoring Committee. Selection criteria shall aim to ensure equal treatment of applicants, better use of financial resources and targeting of measures in accordance with the Union priorities for rural development. In defining and applying selection criteria the principle of proportionality shall be taken into account in relation to the size of the operation.

2. The Member State authority responsible for the selection of operations shall ensure that operations, with the exception of operations under Articles 28 to 31, 33 to 34 and 36 to 39, are selected in accordance with the selection criteria referred to in paragraph 1 and according to a transparent and well documented procedure.

3. Where appropriate, the beneficiaries may be selected on the basis of calls for proposals, applying economic and environmental efficiency criteria.

Article 50

Rural area definition

For the purposes of this Regulation the Managing Authority shall define "rural area" at programme level. Member States may establish such a definition for a measure or type of operation if duly justified.

CHAPTER III

Technical assistance and networking

Article 51

Funding technical assistance

1. In accordance with Article 6 of Regulation (EU) No 1306/2013 the EAFRD may use up to 0,25 % of its annual allocation to finance the tasks referred to in Article 58 of Regulation (EU) No 1303/2013, including the costs for setting up and operating the European network for rural development referred to in Article 52 and the EIP network referred to in Article 53 at the Commission's initiative and/or on its behalf.

The EAFRD may also finance the actions provided for in Article 41(2) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council⁽¹⁾, in relation to Union quality scheme indications and symbols.

⁽¹⁾ Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

Those actions shall be carried out in accordance with Article 58 of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council⁽²⁾ and any other provisions of that Regulation and of its implementing provisions that are applicable to this form of execution of the budget.

2. At the initiative of the Member States up to 4 % of the total amount of each rural development programme may be devoted to the tasks referred to in Article 59 of Regulation (EC) No 1303/2013 and costs related to preparatory work for the delimitation of areas facing natural or other specific constraints referred to in Article 32.

Costs relating to the certification body referred to in Article 9 of Regulation (EU) No 1306/2013 shall not be eligible under this paragraph.

Within that 4 % limit an amount shall be reserved for establishing and operating the national rural network referred to in Article 54.

3. In case of rural development programmes covering both less-developed regions and other regions, the EAFRD contribution rate for technical assistance referred to in Article 59(3) may be determined by taking into account the predominant type of regions, by their number, in the programme.

Article 52

European network for rural development

1. A European network for rural development for the networking of national networks, organisations, and administrations active in the field of rural development at Union level shall be put in place in accordance with Article 51(1).

2. Networking through the European network for rural development shall aim to:

- (a) increase the involvement of all stakeholders, and in particular agricultural, forestry and other rural development stakeholders in the implementation of rural development;
- (b) improve the quality of rural development programmes;
- (c) play a role in informing the broader public on the benefits of rural development policy.
- (d) support the evaluation of rural development programmes.

⁽²⁾ 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).

3. The tasks of the network shall be to:
- (a) collect, analyse and disseminate information on action in the field of rural development;
 - (b) provide support on evaluation processes and on data collection and management;
 - (c) collect, consolidate and disseminate at Union level good rural development practices, including on evaluation methodologies and tools;
 - (d) set up and run thematic groups and/or workshops with a view to facilitating the exchange of expertise and to supporting the implementation, monitoring and further development of rural development policy;
 - (e) provide information on developments in rural areas of the Union and in third countries;
 - (f) organise meetings and seminars at Union level for those actively involved in rural development;
 - (g) support the national networks and transnational co-operation initiatives and the exchange concerning actions and experience in the field of rural development with networks in third countries;
 - (h) specifically for local action groups:
 - (i) create synergies with the activities carried out at national or regional level, or at both by the respective networks with regard to capacity building actions and exchange of experience; and
 - (ii) cooperate with the networking and technical support bodies for local development set up by the ERDF, the ESF and the EMFF as regards their local development activities and transnational co-operation.
4. The Commission shall adopt implementing acts, setting out the organisational structure and operation of the European network for rural development network. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.
2. The aim of the EIP network shall be to:
- (a) facilitate the exchange of expertise and good practices;
 - (b) establish a dialogue between farmers and the research community and facilitate the inclusion of all stakeholders in the knowledge exchange process.
3. The tasks of the EIP network shall be to:
- (a) provide a help desk function and provide information to key actors concerning the EIP;
 - (b) encourage the setting up of operational groups and provide information about the opportunities provided by Union policies;
 - (c) facilitate the setting up of cluster initiatives and pilot or demonstration projects which may relate, inter alia, to the following issues:
 - (i) increased agricultural productivity, economic viability, sustainability, output and resource efficiency;
 - (ii) innovation in support of the bio-based economy;
 - (iii) biodiversity, ecosystem services, soil functionality and sustainable water management;
 - (iv) innovative products and services for the integrated supply chain;
 - (v) opening up new product and market opportunities for primary producers;
 - (vi) food quality, food safety and healthy diet;
 - (vii) reduce post-harvest losses and food wastage.
 - (d) Collect and disseminate information in the field of the EIP, including research findings and new technologies relevant to innovation and knowledge exchange and exchanges in the field of innovation with third countries.

Article 53

European Innovation Partnership network

1. A EIP network shall be put in place to support the EIP for agricultural productivity and sustainability referred to in Article 55, in accordance with Article 51(1). It shall enable the networking of operational groups, advisory services and researchers.

4. The Commission shall adopt implementing acts, setting out the organisational structure and operation of the EIP network. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

Article 54

National rural network

1. Each Member State shall establish a national rural network, which groups the organisations and administrations involved in rural development. The partnership referred to in Article 5 of Regulation (EU) No 1303/2013 shall also be part of the national rural network.

Member States with regional programmes may submit for approval a specific programme for the establishment and the operation of their national rural network.

2. Networking by the national rural network shall aim to:

- (a) increase the involvement of stakeholders in the implementation of rural development;
- (b) improve the quality of implementation of rural development programmes;
- (c) inform the broader public and potential beneficiaries on rural development policy and funding opportunities;
- (d) foster innovation in agriculture, food production, forestry and rural areas.

3. EAFRD support under Article 51(3) shall be used:

- (a) for the structures needed to run the network;
- (b) for the preparation and implementation of an action plan covering at least the following:
 - (i) activities regarding the collection of examples of projects covering all priorities of the rural development programmes;
 - (ii) activities regarding the facilitation of thematic and analytical exchanges between rural development stakeholders, sharing and dissemination of findings;
 - (iii) activities regarding the provision of training and networking for local action groups and in particular technical assistance for inter-territorial and transnational co-operation, facilitation of co-operation among local action groups and the search of partners for the measure referred to in Article 35;
 - (iv) activities regarding the provision of networking for advisors and innovation support services;
 - (v) activities regarding the sharing and dissemination of monitoring and evaluation findings;

(vi) a communication plan including publicity and information concerning the rural development programme in agreement with the Managing Authorities and information and communication activities aimed at a broader public;

(vii) activities regarding the participation in and contribution to the European network for rural development.

4. The Commission shall adopt implementing acts, laying down rules for the establishment and operation of national rural networks and the content of the specific programmes referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

TITLE IV

EIP FOR AGRICULTURAL PRODUCTIVITY AND SUSTAINABILITY

Article 55

Aims

1. The EIP for agricultural productivity and sustainability shall:

- (a) promote a resource efficient, economically viable, productive, competitive, low emission, climate friendly and resilient agricultural and forestry sector, working towards agro-ecological production systems and working in harmony with the essential natural resources on which farming and forestry depend;
- (b) help deliver a steady and sustainable supply of food, feed and biomaterials, including existing and new types;
- (c) improve processes to preserve the environment, adapt to climate change and mitigate it;
- (d) build bridges between cutting-edge research knowledge and technology and farmers, forest managers, rural communities, businesses, NGOs and advisory services.

2. The EIP for agricultural productivity and sustainability shall seek to achieve its aims by:

- (a) creating added value by better linking research and farming practice and encouraging the wider use of available innovation measures;

- (b) promoting the faster and wider transposition of innovative solutions into practice; and
- (c) informing the scientific community about the research needs of farming practice.

3. The EAFRD shall contribute to the aims of the EIP for agricultural productivity and sustainability through support, in accordance with Article 35, of the EIP operational groups referred to in Article 56 and the EIP network referred to in Article 53.

Article 56

Operational groups

1. EIP operational groups shall form part of the EIP for agricultural productivity and sustainability. They shall be set up by interested actors such as farmers, researchers, advisors and businesses involved in the agriculture and food sector, who are relevant for achieving the objectives of the EIP.
2. EIP operational groups shall establish internal procedures that ensure, that their operation and decision-making is transparent and that situations of conflict of interest are avoided.
3. The Member States shall decide within the framework of their programmes to what extent they will support the operational groups.

Article 57

Tasks of operational groups

1. EIP operational groups shall draw up a plan that contains the following:
 - (a) a description of the innovative project to be developed, tested, adapted or implemented;
 - (b) a description of the expected results and the contribution to the EIP objective of enhancing productivity and sustainable resource management.
2. When implementing their innovative projects operational groups shall:
 - (a) make decisions on the elaboration and implementation of innovative actions; and
 - (b) implement innovative actions through measures financed through the rural development programmes.

3. Operational groups shall disseminate the results of their project, in particular through the EIP network.

TITLE V

FINANCIAL PROVISIONS

Article 58

Resources and their distribution

1. Without prejudice to paragraphs 5, 6 and 7 of this Article, the total amount of Union support for rural development under this Regulation for the period from 1 January 2014 to 31 December 2020 shall be EUR 84 936 million, in 2011 prices, in accordance with the multiannual financial framework for the years 2014 to 2020.
2. 0,25 % of the resources referred to in paragraph 1 shall be devoted to technical assistance for the Commission, as referred to in Article 51(1).
3. For the purpose of their programming and subsequent inclusion in the general budget of the Union, the amounts referred to in paragraph 1 shall be indexed at 2 % per year.
4. The annual breakdown by Member State of the amounts referred to in paragraph 1, after deduction of the amount referred to in paragraph 2 is set out in Annex I.
5. Funds transferred by a Member State under Article 14(2) of Regulation (EU) No 1306/2013 shall be subtracted from the amounts allocated to that Member State in accordance with paragraph 4.
6. The funds transferred to the EAFRD in application of Articles 7(2) and 14(1) of Regulation (EU) No 1307/2013 and the funds transferred to the EAFRD in application of Articles 10b and 136 of Council Regulation (EC) No 73/2009 ⁽¹⁾ in respect of calendar year 2013 shall also be included in the annual breakdown referred to in paragraph 4.
7. In order to take account of the developments relating to the annual breakdown referred to in paragraph 4, including the transfers referred to in paragraphs 5 and 6; to make technical adjustments without changing the overall allocations; or to take account of any other change provided for by a legislative act after the adoption of this Regulation, the Commission shall be empowered to adopt delegated acts, in accordance with Article 83, to review the ceilings set out in Annex I.

⁽¹⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

8. For the purposes of the allocation of the performance reserve referred to in Article 22(3) and (4) of Regulation (EU) No 1303/2013, available assigned revenue collected in accordance with Article 43 of Regulation (EU) No 1306/2013 for the EAFRD shall be added to the amounts referred to in Article 20 of Regulation (EU) No 1303/2013. That available assigned revenue shall be allocated to Member States in proportion to their share of the total amount of support from the EAFRD.

Article 59

Fund contribution

1. The decision approving a rural development programme shall set the maximum contribution from the EAFRD to the programme. The decision shall clearly identify, where necessary, the appropriations allocated to the less developed regions.

2. The EAFRD contribution shall be calculated on the basis of the amount of eligible public expenditure.

3. The rural development programmes shall establish a single EAFRD contribution rate applicable to all measures. Where applicable, a separate EAFRD contribution rate shall be established for less-developed regions, for outermost regions and for the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93, as well as for transition regions. The maximum EAFRD contribution rate shall be:

- (a) 85 % of the eligible public expenditure in the less developed regions, in the outermost regions and in the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93;
- (b) 75 % of the eligible public expenditure for all regions whose GDP per capita for the 2007-2013 period was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75 % of the GDP average of the EU-27;
- (c) 63 % of the eligible public expenditure for the transition regions other than those referred to in point (b) of this paragraph;
- (d) 53 % of the eligible public expenditure in the other regions.

The minimum EAFRD contribution rate shall be 20 %.

4. By way of derogation from paragraph 3, the maximum EAFRD contribution shall be:

- (a) 80 % for the measures referred to in Articles 14, 27 and 35, for the LEADER local development referred to in Article 32 of Regulation (EU) No 1303/2013 and for operations under point (a)(i) of Article 19(1). That rate may be increased to a maximum of 90 % for the programmes of less developed,

the outermost regions, of the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93 and of transition regions referred to in points (b) and (c) of paragraph 3;

- (b) 75 % for operations contributing to the objectives of environment and climate change mitigation and adaptation under Article 17, points (a) and (b) of Article 21(1), Articles 28 29, 30 31 and 34.
- (c) 100 % for Union-level financial instruments referred to in point (a) of Article 38(1) of Regulation 1303/2013;
- (d) the contribution rate applicable to the measure concerned increased by an additional 10 percentage points for contributions to financial instruments referred to in point (b) of Article 38(1) of Regulation 1303/2013.
- (e) 100 % for operations receiving funding from funds transferred to the EAFRD in application of Article 7(2) and Article 14(1) of Regulation (EU) No 1306/2013.
- (f) 100 % for an amount of EUR 500 million, in 2011 prices, allocated to Portugal and for an amount of EUR 7 million, in 2011 prices, allocated to Cyprus on condition that those Member States are receiving financial assistance in accordance with Articles 136 and 143 TFEU on 1 January 2014 or thereafter, until 2016, when the application of this provision shall be reassessed.
- (g) For Member States receiving on 1 January 2014 or thereafter financial assistance in accordance with Article 136 and 143 TFEU, the EAFRD contribution rate resulting from the application of Article 24(1) of Regulation (EU) No 1303/2013 may be increased by a maximum of an additional 10 percentage points up to a total maximum of 95 %, for expenditure to be paid by these Member States in the first two years of implementation of the rural development programme. The EAFRD contribution rate which would be applicable without this derogation shall, however, be respected for the total public expenditure made during the programming period.

5. At least 5 %, and in the case of Croatia 2,5 %, of the total EAFRD contribution to the rural development programme shall be reserved for LEADER.

6. At least 30 % of the total EAFRD contribution to the rural development programme shall be reserved for measures under the following Articles: Article 17 for environment and climate related investments; Articles 21, 28, 29 and 30, with the exception of Water Framework Directive related payments; and Articles 31, 32 and 34.

The first subparagraph shall not apply to the outermost regions and the overseas territories of the Member States.

7. Where a Member State submits both a national programme and a set of regional programmes, paragraphs 5 and 6 shall not apply to the national programme. The EAFRD contribution to the national programme shall be taken into account for the purpose of calculating the percentages referred to in paragraphs 5 and 6 for each regional programme, in proportion to that regional programme's share of the national allocation.

8. An expenditure co-financed by the EAFRD shall not be co-financed by way of a contribution from the Structural Funds, from the Cohesion Fund or from any other Union financial instrument.

9. Public expenditure on aid to enterprises shall comply with the aid limits laid down in respect of State aid, unless this Regulation provides otherwise.

Article 60

Eligibility of expenditure

1. By way of derogation from Article 65(9) of Regulation (EU) No 1303/2013, in cases of emergency measures due to natural disasters, the rural development programmes may provide that eligibility of expenditure relating to programme changes may start from the date when the natural disaster occurred.

2. Expenditure shall be eligible for an EAFRD contribution only where incurred for operations decided upon by the Managing Authority of the programme in question or under its responsibility, in accordance with selection criteria referred to in Article 49.

With the exception of general costs as defined in Article 45(2)(c), in respect of investment operations under measures falling within the scope of Article 42 TFEU, only expenditure which has been incurred after an application has been submitted to the competent authority shall be considered eligible.

Member States may provide in their programmes that only expenditure which has been incurred after the application for support has been approved by the competent authority shall be eligible.

3. Paragraphs 1 and 2 shall not apply to Article 51(1) and (2).

4. Payments by beneficiaries shall be supported by invoices and documents proving payment. Where this cannot be done, payments shall be supported by documents of equivalent probative value, except for forms of support under points (b), (c) and (d) of Article 67(1) of Regulation (EU) No 1303/2013.

Article 61

Eligible expenditure

1. Where running costs are covered by support under this Regulation the following types of costs shall be eligible:

- (a) operating costs;
- (b) personnel costs;
- (c) training costs;
- (d) costs linked to public relations;
- (e) financial costs;
- (f) networking costs.

2. Studies shall only be eligible expenditure where they are linked to a specific operation under the programme or the specific objectives and targets of the programme.

3. Contributions in kind in the form of provision of works, goods, services, land and real estate for which no cash payment supported by invoices or documents of equivalent probative value has been made, may be eligible for support provided that the conditions of Article 69 of Regulation (EU) No 1303/2013 are fulfilled.

Article 62

Verifiability and controllability of measures

1. Member States shall ensure that all the rural development measures that they intend to implement are verifiable and controllable. To this end, the Managing Authority and the paying agency of each rural development programme shall provide an ex ante assessment of the verifiability and controllability of the measures to be included in the rural development programme. The Managing Authority and paying agency shall also undertake the assessment of the verifiability and controllability of measures during the implementation of the rural development programme. Ex ante assessment and assessment during the implementation period shall take into account the results of controls in the previous and current programming period. Where the assessment reveals that the requirements of verifiability and controllability are not met, the measures concerned shall be adjusted accordingly.

2. Where aid is granted on the basis of standard costs or additional costs and income foregone, Member States shall ensure that the relevant calculations are adequate and accurate and established in advance on the basis of a fair, equitable and verifiable calculation. To this end, a body that is functionally independent from the authorities responsible for the programme implementation and possesses the appropriate expertise shall perform the calculations or confirm the adequacy and accuracy of the calculations. A statement confirming the adequacy and accuracy of the calculations shall be included in the rural development programme.

*Article 63***Advances**

1. Payment of advances shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 100 % of the amount of the advance. As regards public beneficiaries, advances shall be paid to municipalities, regional authorities and associations thereof, as well as to public law bodies.

A facility provided as a guarantee by a public authority shall be considered equivalent to the guarantee referred to in the first subparagraph, provided that the authority undertakes to pay the amount covered by that guarantee if entitlement to the advance paid is not established.

2. The guarantee may be released when the competent paying agency establishes that the amount of actual expenditure corresponding to the public contribution related to the operation exceeds the amount of the advance.

TITLE VI

MANAGEMENT, CONTROL AND PUBLICITY*Article 64***Responsibilities of the Commission**

To ensure, in the context of shared management, sound financial management in accordance with Article 317 TFEU, the Commission shall carry out the measures and controls laid down in Regulation (EU) No 1306/2013.

*Article 65***Responsibilities of the Member States**

1. Member States shall adopt all the legislative, statutory and administrative provisions in accordance with Article 58(1) of Regulation (EU) No 1306/2013 in order to ensure that the Union's financial interests are protected effectively.

2. Member States shall designate, for each rural development programme, the following authorities:

- (a) the Managing Authority, which may be either a public or private body acting at national or regional level, or the Member State itself when it carries out that task, to be in charge of the management of the programme concerned;
- (b) the accredited paying agency within the meaning of Article 7 of Regulation (EU) No 1306/2013;
- (c) the certification body within the meaning of Article 9 of Regulation (EU) No 1306/2013.

3. Member States shall ensure, for each rural development programme, that the relevant management and control system

has been set up in such a way that ensures a clear allocation and separation of functions between the Managing Authority and other bodies. Member States shall be responsible for ensuring that the systems function effectively throughout the programme period.

4. Member States shall clearly define the tasks of the Managing Authority, the Paying Agency and the local action groups under LEADER as regards to the application of eligibility and selection criteria and the project selection procedure.

*Article 66***Managing Authority**

1. The Managing Authority shall be responsible for managing and implementing the programme in an efficient, effective and correct way and in particular for:

- (a) ensuring that there is an appropriate secure electronic system to record, maintain, manage and report statistical information on the programme and its implementation required for the purposes of monitoring and evaluation and, in particular, information required to monitor progress towards the defined objectives and priorities;
- (b) providing the Commission, by 31 January and 31 October in each year of the programme, with relevant indicator data on operations selected for funding, including information on output and financial indicators;
- (c) ensuring that beneficiaries and other bodies involved in the implementation of operations:
 - (i) are informed of their obligations resulting from the aid granted, and maintain either a separate accounting system or an adequate accounting code for all transactions relating to the operation;
 - (ii) are aware of the requirements concerning the provision of data to the Managing Authority and the recording of outputs and results;
- (d) ensuring that the ex ante evaluation referred to in Article 55 of Regulation (EU) No 1303/2013 conforms to the evaluation and monitoring system and accepting and submitting it to the Commission;
- (e) ensuring that the evaluation plan referred to in Article 56 of Regulation (EU) No 1303/2013 is in place, that the ex post programme evaluation referred to in Article 57 of Regulation (EU) No 1303/2013 is conducted within the time limits laid down in that Regulation, ensuring that such evaluations conform to the monitoring and evaluation system and submitting them to the Monitoring Committee and the Commission;

- (f) providing the Monitoring Committee with the information and documents needed to monitor implementation of the programme in the light of its specific objectives and priorities;
- (g) drawing up the annual progress report, including aggregate monitoring tables, and, after approval by the Monitoring Committee, submitting it to the Commission;
- (h) ensuring that the paying agency receives all necessary information, in particular on the procedures operated and any controls carried out in relation to operations selected for funding, before payments are authorised;
- (i) ensuring publicity for the programme, including through the national rural network, by informing potential beneficiaries, professional organisations, the economic and social partners, bodies involved in promoting equality between men and women, and the non-governmental organisations concerned, including environmental organisations, of the possibilities offered by the programme and the rules for gaining access to programme funding as well as by informing beneficiaries of the Union contribution and the general public on the role played by the Union in the programme.

2. The Member State or the Managing Authority may designate one or more intermediate bodies including local authorities, regional development bodies or non-governmental organisations, to carry out the management and implementation of rural development operations.

When a part of its tasks is delegated to another body, the Managing Authority shall retain full responsibility for the efficiency and correctness of management and implementation of those tasks. The Managing Authority shall ensure that appropriate provisions are in place to allow the other body to obtain all necessary data and information for execution of these tasks.

3. Where a thematic sub-programme, as referred to in Article 7, is included in the rural development programme, the Managing Authority may designate one or more intermediate bodies, including local authorities, local action groups or non-governmental organisations, to carry out the management and implementation of that strategy. Paragraph 2 shall apply in this case.

The managing authority shall ensure that operations and outputs of this thematic sub-programme are identified separately for the purposes of the monitoring and evaluation system referred to in Article 67.

4. Subject to the role of the paying agencies and other bodies as set out in Regulation (EU) No 1306/2013, where a Member State has more than one programme, a coordinating body may be designated with the purpose of ensuring consistency in the management of the funds and of providing a link between the Commission and the national management authorities.

5. The Commission shall adopt implementing acts, laying down uniform conditions for the application of the information and publicity requirements referred to in point (i) of paragraph 1.

TITLE VII

MONITORING AND EVALUATION

CHAPTER I

General provisions

Section 1

Establishment and objectives of a monitoring and evaluation system

Article 67

Monitoring and evaluation system

In accordance with this Title, a common monitoring and evaluation system shall be drawn up in co-operation between the Commission and the Member States and shall be adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

Article 68

Objectives

The monitoring and evaluation system shall aim to:

- demonstrate the progress and achievements of rural development policy and assess the impact, effectiveness, efficiency and relevance of rural development policy interventions;
- contribute to better targeted support for rural development;
- support a common learning process related to monitoring and evaluation.

Section 2

Technical provisions

Article 69

Common indicators

1. A list of common indicators relating to the initial situation as well as to the financial execution, outputs, results and impact of the programme and applicable to each programme shall be specified in the monitoring and evaluation system provided for in Article 67 to allow for aggregation of data at Union level.

2. The common indicators shall be based on available data and linked to the structure and objectives of the rural development policy framework and shall allow assessment of the progress, efficiency and effectiveness of policy implementation against objectives and targets at Union, national and programme level. The common impact indicators shall be based on available data.

3. The evaluator shall quantify the impact of the programme measured by the impact indicators. Based on evidence in the evaluations on the CAP, including evaluations on Rural Development programmes, the Commission shall, with the help of the Member States, assess the combined impact of all CAP instruments.

Article 70

Electronic Information System

Key information on the implementation of the programme, on each operation selected for funding, as well as on completed operations, needed for monitoring and evaluation, including key information on each beneficiary and project, shall be recorded and maintained electronically.

Article 71

Provision of information

Beneficiaries of support under rural development measures and local action groups shall undertake to provide to the Managing Authority and/or to appointed evaluators or other bodies delegated to perform functions on its behalf, all the information necessary to permit monitoring and evaluation of the programme, in particular in relation to meeting specified objectives and priorities.

CHAPTER II

Monitoring

Article 72

Monitoring procedures

1. The Managing Authority and the Monitoring Committee referred to in Article 47 of Regulation (EU) No 1303/2013 shall monitor the quality of the implementation of the programme.

2. The Managing Authority and the Monitoring Committee shall carry out monitoring of each rural development programme by means of financial, output and target indicators.

Article 73

Monitoring Committee

Member States with regional programmes may establish a national Monitoring Committee to coordinate the implementation of these programmes in relation to the National Framework and the uptake of financial resources.

Article 74

Responsibilities of the Monitoring Committee

The Monitoring Committee shall satisfy itself as to the performance of the rural development programme and the effectiveness of its implementation. To that end, in addition to the functions referred to in Article 49 of Regulation (EU) No 1303/2013 the Monitoring Committee shall:

- (a) be consulted and shall issue an opinion, within four months of the decision approving the programme, on the selection criteria for financed operations, which shall be revised according to programming needs;
- (b) examine the activities and outputs related to the progress in the implementation of the evaluation plan of the programme;
- (c) examine, in particular, actions in the programme relating to the fulfilment of ex ante conditionalities, which fall within the responsibilities of the Managing Authority, and be informed of actions relating to the fulfilment of other ex ante conditionalities;
- (d) participate in the national rural network to exchange information on programme implementation; and
- (e) consider and approve the annual implementation reports before they are sent to the Commission.

Article 75

Annual implementation report

1. By 30 June 2016 and by 30 June of each subsequent year until and including 2024, the Member State shall submit to the Commission an annual implementation report on implementation of the rural development programme in the previous calendar year. The report submitted in 2016 shall cover the calendar years 2014 and 2015.

2. In addition to complying with the requirements of Article 50 of Regulation (EU) No 1303/2013 annual implementation reports shall include information inter alia on financial commitments and expenditure by measure, and a summary of the activities undertaken in relation to the evaluation plan.

3. In addition to complying with the requirements of Article 50 of Regulation (EU) No 1303/2013, the annual implementation report submitted in 2017 shall also cover a description of the implementation of any sub-programmes included within the programme.

4. In addition to complying with the requirements of Article 50 of Regulation (EU) No 1303/2013, the annual implementation report submitted in 2019 shall also cover, a description of the implementation of any sub-programmes included within the programme and an assessment of progress made in ensuring an integrated approach to use of the EAFRD and other EU financial instruments to support the territorial development of rural areas, including through local development strategies.

5. The Commission shall adopt implementing acts, laying down rules concerning the presentation of the annual implementation reports. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

CHAPTER III

Evaluation*Article 76***General provisions**

1. The Commission may adopt implementing acts, specifying the elements to be contained in the ex ante and ex post evaluations referred to in Articles 55 and 57 of Regulation (EU) No 1303/2013 and establishing the minimum requirements for the evaluation plan referred to in Article 56 of Regulation (EU) No 1303/2013. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

2. Member States shall ensure that the evaluations are in accordance with the common evaluation approach agreed in accordance with Article 67, shall organise the production and gathering of the requisite data, and shall supply the various pieces of information provided by the monitoring system to the evaluators.

3. The evaluation reports shall be made available by the Member States on the internet and by the Commission on its website.

*Article 77***Ex ante evaluation**

Member States shall ensure that the ex ante evaluator is involved from an early stage in the process of development of the rural development programme, including in the development of the analysis referred to in Article 8(1)(b), in the design of the programme's intervention logic and in the establishment of the programme's targets.

*Article 78***Ex post evaluation**

In 2024, an ex post evaluation report shall be prepared by the Member States for each of their rural development programmes. That report shall be submitted to the Commission by 31 December 2024.

*Article 79***Syntheses of evaluations**

Syntheses at Union level of the ex ante and ex post evaluation reports shall be undertaken under the responsibility of the Commission.

The syntheses of the evaluation reports shall be completed at the latest by 31 December of the year following the submission of the relevant evaluations.

TITLE VIII

COMPETITION PROVISIONS*Article 80***Rules applying to undertakings**

Where support under this Regulation is granted to forms of co-operation between undertakings, it may be granted only to such forms of co-operation which comply with the competition rules as they apply by virtue of Articles 206 to 210 of the Regulation of the European Parliament and the Council (EU) No 1308/2013.

*Article 81***State aid**

1. Save as otherwise provided for in this Title, Articles 107, 108 and 109 TFEU shall apply to support for rural development by Member States.

2. Articles 107, 108 and 109 TFEU shall not apply to payments made by Member States pursuant to, and in conformity with, this Regulation, or to additional national financing referred to in Article 82, within the scope of Article 42 TFEU.

*Article 82***Additional national financing**

Payments made by Member States in relation to operations falling within the scope of Article 42 TFEU and intended to provide additional financing for rural development for which Union support is granted at any time during the programming period, shall be included by Member States in the rural development programme as provided for in paragraph 1(j) of Article 8 and, where they comply with the criteria under this Regulation, shall be approved by the Commission.

TITLE IX

COMMISSION POWERS, COMMON PROVISIONS AND TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I

Commission powers*Article 83***Exercise of the delegation**

1. The power to adopt delegated acts referred to in Articles 2(3), Article 14(5), Article 16(5), Article 19(8), Article 22(3), Article 28(10) and (11), Article 29(6), Article 30(8), Article 33(4), Article 34(5), Article 35(10), Article 36(5), Article 45(6), Article 47(6) and Article 89 is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in in Articles 2(3), Article 14(5), Article 16(5), Article 19(8), Article 22(3), Article 28(10) and (11), Article 29(6), Article 30(8), Article 33(4), Article 34(5), Article 35(10), Article 36(5), Article 45(6), Article 47(6) and Article 89 shall be conferred on the Commission for a period of seven years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The power to adopt delegated acts referred to in Articles 2(3), Article 14(5), Article 16(5), Article 19(8), Article 22(3), Article 28(10) and (11), Article 29(6), Article 30(8), Article 33(4), Article 34(5), Article 35(10), Article 36(5), Article 45(6), Article 47(6) and Article 89 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 2(3), Article 14(5), Article 16(5), Article 19(8), Article 22(3), Article 28(10) and (11), Article 29(6), Article 30(8), Article 33(4), Article 34(5), Article 35(10), Article 36(5), Article 45(6), Article 47(6) and Article 89 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 84

Committee procedure

1. The Commission shall be assisted by a committee called "Rural Development Committee". That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER II

Common provisions

Article 85

Exchange of information and documents

1. The Commission, in collaboration with the Member States, shall establish an information system to enable the secure exchange of data of common interest between the Commission and each Member State. The Commission shall adopt implementing acts, laying down rules for the operation of that system. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84.

2. The Commission shall ensure that there is an appropriate secure electronic system in which key information and report on monitoring and evaluation can be recorded, maintained and managed.

Article 86

Processing and protection of personal data

1. Member States and the Commission shall collect personal data for the purpose of carrying out their respective management control, monitoring and evaluation obligations under this Regulation, and in particular those laid down in Titles VI and VII, and shall not process this data in a way which is incompatible with this purpose.

2. Where personal data are processed for monitoring and evaluation purposes under Title VII using the secure electronic system referred to in Article 85, they shall be made anonymous, and processed in aggregated form only.

3. Personal data shall be processed in accordance with the rules of Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which permits identification of data subjects for longer than is necessary for the purposes for which they were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.

4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that in this respect they enjoy the rights set out in the data protection rules of, respectively, Directive 95/46/EC and Regulation (EC) No 45/2001.

5. Articles 111 to 114 in Regulation (EU) 1306/2013 shall apply to this Article.

*Article 87***General CAP provisions**

Regulation (EU) No 1306/2013 and the provisions adopted pursuant to it shall apply in relation to the measures set out in this Regulation.

CHAPTER III

Transitional and final provisions*Article 88***Regulation (EC) No 1698/2005**

Regulation (EC) No 1698/2005 is repealed.

Regulation (EC) No 1698/2005 shall continue to apply to operations implemented pursuant to programmes approved by the Commission under that Regulation before 1 January 2014.

*Article 89***Transitional provisions**

In order to facilitate the transition from the system established by Regulation (EC) No 1698/2005 to the system established by this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 83, laying down the conditions under which support approved by the Commission under Regulation (EC) No 1698/2005 may be integrated into support provided for under this Regulation, including for technical assistance and for the ex-post evaluations. Those delegated acts may also provide conditions for the transition from rural development support for Croatia under Regulation (EC) No 1085/2006 to support provided for under this Regulation.

*Article 90***Entry into force and application**

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

It shall apply from 1 January 2014.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. JUKNA

ANNEX I

BREAKDOWN OF UNION SUPPORT FOR RURAL DEVELOPMENT (2014 TO 2020)

(current prices in EUR)

	2014	2015	2016	2017	2018	2019	2020	TOTAL 2014-2020
Belgium	78 342 401	78 499 837	78 660 375	78 824 076	78 991 202	79 158 713	79 314 155	551 790 759
Bulgaria	335 499 038	335 057 822	334 607 538	334 147 994	333 680 052	333 187 306	332 604 216	2 338 783 966
Czech Republic	314 349 445	312 969 048	311 560 782	310 124 078	308 659 490	307 149 050	305 522 103	2 170 333 996
Denmark	90 287 658	90 168 920	90 047 742	89 924 072	89 798 142	89 665 537	89 508 619	629 400 690
Germany	1 178 778 847	1 177 251 936	1 175 693 642	1 174 103 302	1 172 483 899	1 170 778 658	1 168 760 766	8 217 851 050
Estonia	103 626 144	103 651 030	103 676 345	103 702 093	103 728 583	103 751 180	103 751 183	725 886 558
Ireland	313 148 955	313 059 463	312 967 965	312 874 411	312 779 690	312 669 355	312 485 314	2 189 985 153
Greece	601 051 830	600 533 693	600 004 906	599 465 245	598 915 722	598 337 071	597 652 326	4 195 960 793
Spain	1 187 488 617	1 186 425 595	1 185 344 141	1 184 244 005	1 183 112 678	1 182 137 718	1 182 076 067	8 290 828 821
France	1 404 875 907	1 408 287 165	1 411 769 545	1 415 324 592	1 418 941 328	1 422 813 729	1 427 718 983	9 909 731 249
Croatia	332 167 500	332 167 500	332 167 500	332 167 500	332 167 500	332 167 500	332 167 500	2 325 172 500
Italy	1 480 213 402	1 483 373 476	1 486 595 990	1 489 882 162	1 493 236 530	1 496 609 799	1 499 799 408	10 429 710 767
Cyprus	18 895 839	18 893 552	18 891 207	18 888 801	18 886 389	18 883 108	18 875 481	132 214 377
Latvia	138 327 376	138 361 424	138 396 059	138 431 289	138 467 528	138 498 589	138 499 517	968 981 782
Lithuania	230 392 975	230 412 316	230 431 887	230 451 686	230 472 391	230 483 599	230 443 386	1 613 088 240
Luxembourg	14 226 474	14 272 231	14 318 896	14 366 484	14 415 051	14 464 074	14 511 390	100 574 600
Hungary	495 668 727	495 016 871	494 351 618	493 672 684	492 981 342	492 253 356	491 391 895	3 455 336 493
Malta	13 880 143	13 965 035	14 051 619	14 139 927	14 230 023	14 321 504	14 412 647	99 000 898
Netherlands	87 118 078	87 003 509	86 886 585	86 767 256	86 645 747	86 517 797	86 366 388	607 305 360
Austria	557 806 503	559 329 914	560 883 465	562 467 745	564 084 777	565 713 368	567 266 225	3 937 551 997
Poland	1 569 517 638	1 567 453 560	1 565 347 059	1 563 197 238	1 561 008 130	1 558 702 987	1 555 975 202	10 941 201 814

(current prices in EUR)

	2014	2015	2016	2017	2018	2019	2020	TOTAL 2014-2020
Portugal	577 031 070	577 895 019	578 775 888	579 674 001	580 591 241	581 504 133	582 317 022	4 057 788 374
Romania	1 149 848 554	1 148 336 385	1 146 793 135	1 145 218 149	1 143 614 381	1 141 925 604	1 139 927 194	8 015 663 402
Slovenia	118 678 072	119 006 876	119 342 187	119 684 133	120 033 142	120 384 760	120 720 633	837 849 803
Slovakia	271 154 575	270 797 979	270 434 053	270 062 644	269 684 447	269 286 203	268 814 943	1 890 234 844
Finland	335 440 884	336 933 734	338 456 263	340 009 057	341 593 485	343 198 337	344 776 578	2 380 408 338
Sweden	248 858 535	249 014 757	249 173 940	249 336 135	249 502 108	249 660 989	249 768 786	1 745 315 250
United Kingdom	371 473 873	370 520 030	369 548 156	368 557 938	367 544 511	366 577 113	365 935 870	2 580 157 491
Total EU-28	13 618 149 060	13 618 658 677	13 619 178 488	13 619 708 697	13 620 249 509	13 620 801 137	13 621 363 797	95 338 109 365
Technical assistance (0,25 %)	34 130 699	34 131 977	34 133 279	34 134 608	34 135 964	34 137 346	34 138 756	238 942 629
Total	13 652 279 759	13 652 790 654	13 653 311 767	13 653 843 305	13 654 385 473	13 654 938 483	13 655 502 553	95 577 051 994

ANNEX II

AMOUNTS AND SUPPORT RATES

Article	Subject	Maximum amount in EUR or rate	
15(8)	Advisory services, farm management and farm relief services	1 500	Per advice
		200 000	Per three years for the training of advisors
16(2)	Information and promotion activities	70 %	Of the eligible costs of the action
16(4)	Quality schemes or agricultural products and foodstuffs	3 000	Per holding per year
17(3)	Investment in physical assets		Agricultural sector
		50 %	Of the amount of eligible investment in less developed regions and in all regions whose GDP per capita for the 2007 - 2013 period was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75 % of the GDP average of the EU-27.
		75 %	Of the amount of eligible investment in outermost regions
		75 %	Of the amount of eligible investment in Croatia for the implementation of Council Directive 91/676/EEC ⁽¹⁾ within a maximum period of four years from the date of accession pursuant to Article 3(2) and Article 5(1) of that Directive
		75 %	Of the amount of eligible investment in the smaller Aegean islands
		40 %	Of the amount of eligible investment in other regions The above rates may be increased by an additional 20 percentage points, provided that maximum combined support does not exceed 90 %, for: — Young farmers as defined in this Regulation, or who have already set up during the five years preceding the application for support; — Collective investments and integrated projects, including those linked to a merger of producer organisations; — Areas facing natural constraints and other specific as referred to in Article 32; — Operations supported in the framework of the EIP; — Investments linked to operations under Articles 28 and 29

Article	Subject	Maximum amount in EUR or rate	
			Processing and marketing of products listed in Annex I to the TFEU
		50 %	Of the amount of eligible investment in less developed regions and in all regions whose GDP per capita for the 2007 - 2013 period was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75 % of the GDP average of the EU-27
		75 %	Of the amount of eligible investment in outermost regions
		75 %	Of the amount of eligible investment in the smaller Aegean islands
		40 %	Of the amount of eligible investment in other regions The above rates may be increased by an additional 20 percentage points, provided that maximum combined support does not exceed 90 %, for operations supported in the framework of the EIP or those linked to a merger of producer organisations
17(4)	Investment in physical assets	100 %	Non-productive investments and agricultural and forestry infrastructure
18(5)	Restoring agricultural production potential damaged by natural disasters and introduction of appropriate prevention actions	80 %	Of the amount of eligible investment costs for prevention operations carried out by individual farmers.
		100 %	Of the amount of eligible investment costs for prevention operations carried out collectively by more than one beneficiary.
		100 %	Of the amount of eligible investment costs for operations to restore agricultural land and production potential damaged by natural disasters and catastrophic events.
19(6)	Farm and business development	70 000	Per young farmer under Article 19(1)(a)(i)
		70 000	Per beneficiary under Article 19(1)(a)(ii)
		15 000	Per small farm under Article 19(1)(a)(iii)
23(3)	Establishment of agroforestry systems	80 %	Of the amount of eligible investment for the establishment of agroforestry systems

Article	Subject	Maximum amount in EUR or rate	
26(4)	Investments in forestry technologies and in processing, in mobilising and in the marketing of forestry products	65 %	Of the amount of eligible investment in less developed regions
		75 %	Of the amount of eligible investment in outermost regions
		75 %	Of the amount of eligible investment in the smaller Aegean islands
		40 %	Of the amount of eligible investment in other regions
27(4)	Setting up of producer groups and organisations	10 %	As a percentage of marketed production during the first five years following recognition The support shall be degressive.
		100 000	Maximum amount per year in all cases.
28(8)	Agri-environment-climate	600 (*)	Per ha per year for annual crops
		900 (*)	Per ha per year for specialised perennial crops
		450 (*)	Per ha per year for other land uses
		200 (*)	Per livestock unit ("LU") per year for local breeds in danger of being lost to farmers
29(5)	Organic farming	600 (*)	Per ha per year for annual crops
		900 (*)	Per ha per year for specialised perennial crops
		450 (*)	Per ha per year for other land uses
30(7)	Natura 2000 and Water Framework Directive payments	500 (*)	Per ha per year maximum in the initial period not exceeding five years
		200 (*)	Per ha per year maximum
		50 (**)	Per ha per year minimum for Water Framework Directive payments
31(3)	Payments to areas facing natural or other specific constraints	25	Minimum per ha per year on average of the area of the beneficiary receiving support
		250 (*)	Maximum per ha per year
		450 (*)	Maximum per ha per year in mountain areas as defined in Article 32(2)
33(3)	Animal welfare	500	Per LU

Article	Subject	Maximum amount in EUR or rate	
34(3)	Forest-environmental and climate services and forest conservation	200 (*)	Per ha per year
37(5)	Crop, animal and plant insurance	65 %	Of the insurance premium due
38(5)	Mutual funds for adverse climatic events, animal and plant diseases, pest infestations and environmental incidents	65 %	Of the eligible costs.
39(5)	Income stabilisation tool	65 %	Of the eligible costs

(¹) Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources(OJ L 375, 31.12.1991, p. 1).

(*) These amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes.

(**) This amount may be decreased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes.

NB: The aid intensities are without prejudice to Union State aid rules.

ANNEX III

BIOPHYSICAL CRITERIA FOR THE DELIMITATION OF AREAS FACING NATURAL CONSTRAINTS

CRITERION	DEFINITION	THRESHOLD
CLIMATE		
Low Temperature (*)	Length of growing period (number of days) defined by number of days with daily average temperature > 5 °C (LGp5) or	≤ 180 days
	Thermal-time sum (degree-days) for Growing Period defined by accumulated daily average temperature > 5 °C	≤ 1 500 degree-days
Dryness	Ratio of the annual precipitation (P) to the annual potential evapotranspiration (PET)	P/PET ≤ 0.5
CLIMATE AND SOIL		
Excess Soil Moisture	Number of days at or above field capacity	≥ 230 days
SOIL		
Limited Soil Drainage (*)	Areas which are water logged for significant duration of the year	Wet within 80 cm from the surface for over 6 months, or wet within 40 cm for over 11 months or Poorly or very poorly drained soil or Gleyic colour pattern within 40 cm from the surface
Unfavourable Texture and Stoniness (*)	Relative abundance of clay, silt, sand, organic matter (weight %) and coarse material (volumetric %) fractions	≥ 15 % of topsoil volume is coarse material, including rock outcrop, boulder or
		texture class in half or more (cumulatively) of the 100 cm soil surface is sand, loamy sand defined as: Silt % + (2 × clay %) ≤ 30 % or
		Topsoil texture class is heavy clay (≥ 60 % clay) or
		Organic soil (organic matter ≥ 30 %) of at least 40 cm or Topsoil contains 30 % or more clay, and there are vertic properties within 100 cm of the soil surface
Shallow Rooting Depth	Depth (cm) from soil surface to coherent hard rock or hard pan	≤ 30 cm

CRITERION	DEFINITION	THRESHOLD
Poor Chemical Properties (*)	Presence of salts, exchangeable sodium, excessive acidity	Salinity: ≥ 4 deci-Siemens per meter (dS/m) in topsoil or
		Sodicity: ≥ 6 Exchangeable Sodium Percentage (ESP) in half or more (cumulatively) of the 100 cm soil surface layer or
		Soil Acidity: $\text{pH} \leq 5$ (in water) in topsoil
TERRAIN		
Steep Slope	Change of elevation with respect to planimetric distance (%)	≥ 15 %

(*) Member States need only check fulfilment of this criterion against those of the thresholds that are relevant to the specific situation of an area

ANNEX IV

INDICATIVE LIST OF MEASURES AND OPERATIONS OF PARTICULAR RELEVANCE TO THEMATIC SUB-PROGRAMMES REFERRED TO IN ARTICLE 7

Young farmers:

- Business start-up aid for young farmers setting up for the first time in an agricultural holding
- Investments in physical assets
- Knowledge transfer and information actions
- Advisory services, farm management and farm relief services
- Co-operation
- Investments in non-agricultural activities

Small farms:

- Business start-up aid for the development of small farms
- Investments in physical assets
- Quality schemes for agricultural products and foodstuffs
- Knowledge transfer and information actions
- Advisory services, farm management and farm relief services
- Co-operation

Investments in non-agricultural activities

- Setting up of producer groups
- LEADER

Mountain areas:

- Payments to areas facing natural or other specific constraints
- Agri-environment climate operations
- Co-operation
- Investments in physical assets
- Farm and business development in rural areas
- Quality schemes for agricultural products and foodstuffs
- Establishment of agroforestry systems
- Basic services and village renewal in rural areas
- Knowledge transfer and information actions
- Advisory services, farm management and farm relief services
- Setting up of producer groups
- LEADER

Short supply chains:

- Co-operation
- Setting up of producer groups
- LEADER
- Quality schemes for agricultural products and foodstuffs

Basic services and village renewal in rural areas

Investments in physical assets

Knowledge transfer and information actions

Advisory services, farm management and farm relief services

Women in rural areas:

Knowledge transfer and information actions

Advisory services, farm management and farm relief services

Investments in physical assets

Farm and business development

Basic services and village renewal in rural areas

Co-operation

LEADER

Climate change mitigation and adaptation and biodiversity:

Knowledge transfer & information actions

Advisory services, farm management and farm relief services

Investments in physical assets

Restoring agricultural production potential damaged by natural disasters and catastrophic events and introduction of appropriate prevention action

Basic services & village renewal in rural areas

Investments in forest area development and improvement of the viability of forests

Agri-environment-climate

Organic farming

Natura 2000 and Water framework directive payments

Payments to areas facing natural and other specific constraints (biodiversity)

Forest-environmental and climate services and forest conservation

Co-operation

Risk management

ANNEX V

EX ANTE CONDITIONALITIES FOR RURAL DEVELOPMENT

1. PRIORITIES-LINKED CONDITIONALITIES

EU priority for RD / CPR Thematic Objective (TO)	Ex ante conditionality	Criteria for fulfilment
RD priority 3: promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture TO 5: promoting climate change adaptation, risk prevention and management	3.1. Risk prevention and risk management: the existence of national or regional risk assessments for disaster management, taking into account climate change adaptation	<ul style="list-style-type: none"> — A national or regional risk assessment with the following elements shall be in place: <ul style="list-style-type: none"> — A description of the process, methodology, methods and non-sensitive data used for risk assessment as well as of the risk-based criteria for the prioritisation of investment; — A description of single-risk and multi-risk scenarios; — Taking into account, where appropriate, national climate change adaptation strategies.
RD priority 4: restoring, preserving and enhancing ecosystems related to agriculture and forestry	4.1 Good Agricultural and Environmental Conditions (GAEC): standards for good agricultural and environmental condition of land referred to in Chapter I of Title VI of Regulation (EU) 1306/2013 are established at national level	— GAEC standards are defined in national law and specified in the programmes;
TO 5: promoting climate change adaptation, risk prevention and management	4.2 Minimum requirements for fertilisers and plant protection products: minimum requirements for fertilisers and plant protection products referred to in Article 28 of Chapter I of Title III of this Regulation are defined at national level	— minimum requirements for fertilisers and plant protection products referred to in Chapter I of Title III of this Regulation are specified in the programmes;
TO 6: Preserving and protecting the environment and promoting resource efficiency	4.3 other relevant national standards: relevant mandatory national standards are defined for the purpose of Article 28 of Chapter I of Title III of this Regulation	— relevant mandatory national standards are specified in the programmes;
RD priority 5: promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in the agriculture and food sectors and the forestry sector TO 4: supporting the shift towards a low-carbon economy in all sectors TO 6: Preserving and protecting the environment and promoting resource efficiency	5.1 Energy efficiency: Actions have been carried out to promote cost-effective improvements of energy end use efficiency and cost-effective investment in Energy efficiency when constructing or renovating buildings.	<ul style="list-style-type: none"> — The actions are: <ul style="list-style-type: none"> — Measures to ensure minimum requirements are in place related to the energy performance of buildings consistent with Articles 3, 4 and 5 of Directive 2010/31/EU of the European Parliament and the Council ⁽¹⁾. — Measures necessary to establish a system of certification of the energy performance of buildings consistent with Article 11 of Directive 2010/31/EU — Measures to ensure strategic planning on energy efficiency, consistent with Article 3 of Directive 2012/27 EU of the European Parliament and the Council ⁽²⁾.

EU priority for RD / CPR Thematic Objective (TO)	Ex ante conditionality	Criteria for fulfilment
		<ul style="list-style-type: none"> — Measures consistent with Article 13 of Directive 2006/32/EC of the European Parliament and the Council⁽²⁾ on energy end-use efficiency and energy services to ensure the provision to final customers of individual meters in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings.
	5.2 Water sector: The existence of a) a water pricing policy which provides adequate incentives for users to use water resources efficiently and b) an adequate contribution of the different water uses to the recovery of the costs of water services at a rate determined in the approved river basin management plan for investment supported by the programmes.	<ul style="list-style-type: none"> — In sectors supported by the EAFRD, a Member State has ensured a contribution of the different water uses to the recovery of the costs of water services by sector consistent with Article 9, paragraph 1 first indent of the Water Framework Directive having regard where appropriate, to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.
	5.3 Renewable energy: Actions have been carried out to promote the production and distribution of renewable energy sources ⁽⁴⁾ .	<ul style="list-style-type: none"> — Transparent support schemes, priority in grid access or guaranteed access and priority in dispatching, as well as standard rules relating to the bearing and sharing of costs of technical adaptations which have been made public are in place consistent with Article 14(1) and Article 16(2) and (3) of Directive 2009/28/EC — A Member State has adopted a national renewable energy action plan consistent with Article 4 of Directive 2009/28/EC
RD priority 6: promoting social inclusion poverty reduction and economic development in rural areas TO 2: Enhancing access to, and use and quality of, information and communication technologies (Broadband target)	6. Next Generation Network (NGN) Infrastructure: The existence of national or regional NGA Plans which take account of regional actions in order to reach the Union high-speed Internet access targets, focusing on areas where the market fails to provide an open infrastructure at an affordable cost and of a quality in line with the Union competition and State aid rules and to provide accessible services to vulnerable groups.	<ul style="list-style-type: none"> — A national or regional NGN Plan is in place that contains: <ul style="list-style-type: none"> — a plan of infrastructure investments based on an economic analysis taking account of existing private and public infrastructures and planned investments; — sustainable investment models that enhance competition and provide access to open, affordable, quality and future proof infrastructure and services; — measures to stimulate private investment.

⁽¹⁾ Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).

⁽²⁾ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

⁽³⁾ Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC (OJ L 114, 27.4.2006, p. 64).

⁽⁴⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

ANNEX VI

INDICATIVE LIST OF MEASURES WITH RELEVANCE TO ONE OR MORE UNION PRIORITIES FOR RURAL DEVELOPMENT

Measures of particular relevance to several Union priorities

Article 15 Advisory services, farm management and farm relief services

Article 17 Investments in physical assets

Article 19 Farm and business development

Article 35 Co-operation

Article 42 - 44 LEADER

Measures of particular relevance to fostering knowledge transfer and innovation in agriculture, forestry, and rural areas

Article 14 Knowledge transfer and information actions

Article 26 Investments in forestry technologies and in processing in mobilising and in the marketing of forestry products

Measures of particular relevance for enhancing the competitiveness of all types of agriculture and enhancing farm viability

Article 16 Quality schemes for agricultural products and foodstuffs

Measures of particular relevance to promoting food chain organisation and risk management in agriculture

Article 18 Restoring agricultural production potential damaged by natural disasters and catastrophic events and introduction of appropriate prevention actions

Article 24 Prevention and restoration of damage to forests from forest fires and natural disasters and catastrophic events

Article 27 Setting up of producer groups

Article 33 Animal welfare

Article 36 Risk management

Article 37 Crop, animal, and plant insurance

Article 38 Mutual funds for animal and plant diseases and environmental incidents

Article 39 Income stabilisation tool

Measure of particular relevance to restoring, preserving and enhancing ecosystems dependent on agriculture and forestry
and

Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors

Article 21(1)(a) Afforestation and creation of woodland

Article 21(1)(b) Establishment of agroforestry systems

Article 21(1)(d)	Investments improving the resilience and environmental value as well as the mitigation of potential forest ecosystems
Article 28	Agri-environment-climate
Article 29	Organic farming
Article 30	Natura 2000 and Water framework directive payments
Article 31 -32	Payments to areas facing natural or other specific constraints
Article 34	Forest-environmental and climate services and forest conservation
Measures of particular relevance to promoting social inclusion, poverty reduction and economic development in rural areas	
Article 20	Basic services and village renewal in rural areas
Article 42 – 44	LEADER

**REGULATION (EU) No 1306/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013**

**on the financing, management and monitoring of the common agricultural policy and repealing
Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC)
No 1290/2005 and (EC) No 485/2008**

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 43(2) 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 Court of Auditors,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future" examined potential challenges, objectives and orientations for the Common Agricultural Policy (CAP) after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 1290/2005 ⁽²⁾. Experience derived from implementing that Regulation shows that certain elements of the financing and monitoring mechanism need to be adjusted. In view of the scope of the reform, it is appropriate to repeal Regulation (EC) No 1290/2005 and to replace it with a new text. The reform should also, as far as possible, harmonise, streamline and simplify its provisions.
- (2) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the accreditation of the paying agencies and coordinating bodies, the obligations of the paying agencies in relation to

public intervention, as well as the rules on the content of the management and control responsibilities of those agencies, the measures to be financed by the general budget of the European Union (the Union's budget) under public intervention and the valuation of the operations in connection with public intervention. That empowerment should also cover derogations from the ineligibility of payments made by the paying agencies to the beneficiaries before the earliest or the latest possible date of payment and the compensation between expenditure and revenues under the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). In addition, that empowerment should cover the methods applicable to the commitments and the payment of the amounts if the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 170(3) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾.

Furthermore, that empowerment should cover the deferral of monthly payments by the Commission to Member States with regard to expenditure under the EAGF and the conditions governing the reduction or suspension by the Commission of interim payments to Member States under the EAFRD. That empowerment should additionally cover the suspension of monthly payments or interim payments for which the relevant statistical information has not been sent in time, the specific obligations to be complied with by Member States with regard to checks, the criteria and methodology for applying corrections in the context of the conformity clearance procedure and the recovery of debts. Moreover, that empowerment should cover requirements with respect to customs procedures, the withdrawals of aid and penalties in the case of non-compliance with the eligibility conditions and commitments or other obligations resulting from the application of sectoral agricultural legislation. Likewise, that empowerment should cover market measures for which the Commission may suspend monthly payments, rules on securities, on the functioning of the integrated administration and control system as well as the measures excluded from the scrutiny of transactions. Similarly, that empowerment should cover the modification of the sum of the receipts or payments below which the commercial document of undertakings should normally not be scrutinised pursuant to this Regulation, the penalties applied under cross-compliance, the control requirements in the wine sector and the rules

⁽¹⁾ OJ C 191, 29.6.2012, p. 116.

⁽²⁾ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).

⁽³⁾ 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 annual budget of the Union (OJ L 298, 26.10.2012, p. 1).

on maintenance of permanent pasture. Lastly, that empowerment should cover the rules on the operative event and the exchange rate to be used by the Member States not using the euro, measures to safeguard the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it, in respect of the content of the common monitoring and evaluation framework of the measures adopted under the CAP and in respect of transitional measures.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

- (3) The CAP consists of various measures, some of which relate to rural development. It is important to provide financing for those measures in order to contribute to the achievement of the objectives of the CAP. Since those measures have certain elements in common, but do also differ in a number of respects, the provisions on their financing should be dealt with in the same set of provisions. Where necessary those provisions should allow for different treatment. Regulation (EC) No 1290/2005 created two European agricultural funds, namely the EAGF, and the EAFRD (the "Funds"). Those Funds should be maintained.
- (4) Regulation (EU, Euratom) No 966/2012 and the provisions adopted pursuant to it should apply to the measures set out in this Regulation. In particular, this Regulation lays down provisions related to the shared management with Member States based on the principles of sound financial management, transparency and non-discrimination, as well as provisions on the function of accredited bodies, the budgetary principles, provisions which should be respected in the framework of this Regulation.
- (5) In order to ensure consistency between the practices of Member States and harmonised application of the force majeure clause by Member States, this Regulation should provide, where appropriate, for exemptions in cases of force majeure and exceptional circumstances, as well as for a non-exhaustive list of possible cases of force majeure and exceptional circumstances to be recognised by the national competent authorities. Those authorities should take decisions on force majeure or exceptional circumstances on a case by case basis, on the basis of relevant evidence and applying the concept of force majeure in the light of Union agricultural law including the case law of the Court of Justice.
- (6) The Union's budget should finance CAP expenditure, including expenditure on rural development, through the Funds either directly or in the context of shared

management with the Member States. The types of measures that can be financed using the Funds should be specified.

- (7) Provision should be made for the accreditation of paying agencies by Member States and for the establishment of the procedures for obtaining management declarations, and for obtaining the certification of management and monitoring systems and the certification of annual accounts by independent bodies. Moreover, in order to ensure the transparency of national checks, in particular as regards procedures for authorisation, validation and payment and to reduce the administrative and audit burden for the Commission and for the Member States where accreditation of each individual paying agency is required, the number of authorities and bodies to which those responsibilities are delegated should be restricted while respecting the constitutional arrangements of each Member State. In order to avoid unnecessary reorganisation costs, Member States should be allowed to maintain the number of paying agencies which have been accredited before the entry into force of this Regulation.
- (8) Where a Member State accredits more than one paying agency, it is important that it designates a single public coordinating body in order to ensure consistency in the management of funds, to provide liaison between the Commission and the various accredited paying agencies and to ensure that the information requested by the Commission concerning the operations of several paying agencies is made rapidly available. The public coordinating body should also take and coordinate actions with a view to resolving any deficiencies of a common nature and should keep the Commission informed of any follow-up. In addition, that body should promote and, where possible, ensure homogeneous application of common rules and standards.
- (9) Only when using paying agencies that have been accredited by the Member States is there reasonable assurance that the necessary checks have been carried out before granting Union aid to beneficiaries. It should, therefore, be explicitly laid down in this Regulation that only expenditure effected by accredited paying agencies can be reimbursed from the Union's budget.
- (10) In order to help beneficiaries to become more aware of the relationship between agricultural practices and management of farms on the one hand, and standards relating to the environment, climate change, good agricultural condition of land, food safety, public health, animal health, plant health and animal welfare on the other, it is necessary for Member States to establish a comprehensive farm advisory system offering advice to beneficiaries. That farm advisory system should not, in any way, affect the obligation and responsibility of beneficiaries to respect those standards. Furthermore, a clear separation between advice and checks should be ensured by the Member States.

- (11) The farm advisory system should cover at least the obligations at farm level resulting from cross-compliance standards and requirements. That system should also cover the requirements to be respected in relation to the agricultural practices beneficial for the climate and the environment and the maintenance of the agricultural area under Regulation (EU) No 1307/2013 of the European Parliament and of the Council⁽¹⁾ and measures at farm level provided for in rural development programmes aiming at farm modernisation, competitiveness building, sectoral integration, innovation, market orientation and promotion of entrepreneurship.

That system should also cover the requirements imposed on beneficiaries by Member States in order to implement specific provisions of Directive 2000/60/EC of the European Parliament and the Council⁽²⁾ and for implementing Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council⁽³⁾, in particular requirements concerning the compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC of the European Parliament and the Council⁽⁴⁾.

- (12) Entry into the farm advisory system should be on a voluntary basis for beneficiaries. All beneficiaries, even farmers not receiving support under the CAP, should be allowed to participate in the system. It should, however, be possible for Member States to set priority criteria. Due to the nature of the system, it is appropriate for the information obtained during the advisory activity to be treated as confidential, except in the case of serious infringements of Union or national law. In order to ensure the efficiency of the system, advisors should be suitably qualified and regularly trained.
- (13) In respect of the EAGF, the financial resources required to cover the expenditure effected by the accredited paying agencies, should be made available to the Member States by the Commission in the form of reimbursements against the booking of the expenditure effected by those agencies. Until such reimbursements have been paid, in the form of monthly payments, financial resources are to be mobilised by the Member States depending on the needs of their accredited paying agencies. The administrative and personnel costs of the

Member States and the beneficiaries involved in the implementation of the CAP should be borne by themselves.

- (14) The use of the agro-meteorological system and the acquisition and improvement of satellite images should provide the Commission with, in particular, the means to manage agricultural markets, to facilitate the monitoring of agricultural expenditure and to monitor agricultural resources in the medium and long term. Also, in the light of the experience gained with the application of Council Regulation (EC) No 165/94⁽⁵⁾, some of its provisions should be incorporated in this Regulation and, consequently, Regulation (EC) No 165/94 should be repealed.
- (15) In the context of respecting budget discipline, it is necessary to define the annual ceiling for the expenditure financed by the EAGF by taking into account the maximum amounts laid down for that Fund under the multiannual financial framework provided for in Council Regulation (EU, Euratom) No 1311/2013⁽⁶⁾.
- (16) Budget discipline also requires the annual ceiling for expenditure financed by the EAGF to be respected in all circumstances and at every stage of the budget procedure and of the execution of the budget. Consequently, it is necessary for the national ceiling for the direct payments per Member State set out in Regulation (EU) No 1307/2013 to be regarded as a financial ceiling for such direct payments for the Member State concerned and for the reimbursement of those payments remain within this financial ceiling. Furthermore, budget discipline requires that all Union legal acts in the CAP field that are proposed by the Commission or adopted by the Union or by the Commission and that are financed by the EAGF comply with the annual ceiling for the expenditure financed by that Fund.
- (17) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings, the financial mechanism referred to in Council Regulation (EC) No 73/2009⁽⁷⁾ by which the level of direct support is adjusted, should be maintained. Where the European Parliament and the Council do not fix them before 30 June of the calendar year in respect of which they apply, the Commission should be authorised to set those adjustments.

⁽¹⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulations (EC) No 637/2008 and (EC) No 73/2009 (See page 608 of this Official Journal).

⁽²⁾ Directive 2000/60/EC of the European Parliament and the Council establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽³⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

⁽⁴⁾ Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

⁽⁵⁾ Council Regulation (EC) No 165/94 of 24 January 1994 concerning the co-financing by the Community of remote-sensing checks (OJ L 24, 29.1.1994, p. 6).

⁽⁶⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (See page 884 of this Official Journal).

⁽⁷⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

- (18) In order to support the agricultural sector in case of major crises affecting the agricultural production or distribution, a reserve for crises should be established by applying, at the beginning of each year, a reduction to direct payments through the financial discipline mechanism.
- (19) Article 169(3) of Regulation (EU, Euratom) No 966/2012 provides that non-committed appropriations relating to the actions referred to in Article 4(1) of this Regulation may be carried over only to the following financial year and that such carryover may lead to an additional payment only to the final recipients who were subject, in the preceding financial year, to the adjustment of direct payments as referred to in Article 25 of this Regulation. Consequently, where appropriations are thus carried over to the following financial year, the national administrations would have to make payments to two populations of beneficiaries of direct payments in one financial year: on the one hand, reimbursing, from the unused amount of financial discipline carried-over, to farmers subject to financial discipline during the preceding financial year on the other hand, making the direct payments in financial year N to those farmers having claimed them. In order to avoid an excessive administrative burden for national administrations, a derogation from the fourth subparagraph of Article 169(3) of Regulation (EU, Euratom) No 966/2012 should be provided for, allowing the national administrations to reimburse the amount carried over to financial year N to farmers subject to financial discipline in year N instead of to farmers who are subject to it in year N-1.
- (20) The measures taken to determine the financial contribution from the Funds in respect of the calculation of financial ceilings do not affect the powers of the budgetary authority designated by the TFEU. Those measures should therefore be based on the reference amounts fixed in accordance with the Interinstitutional Agreement of 19 November 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management and Regulation (EU, Euratom) No 1311/2013.
- (21) Budget discipline also requires a continuous examination of the medium-term budget situation. The Commission, when submitting the draft budget for a given year, should therefore present its forecasts and analyses to the European Parliament and to the Council and should propose, if necessary, appropriate measures to the legislator. Furthermore, the Commission should make full use of its management powers at all times to ensure compliance with the annual ceiling and, if necessary, should propose appropriate measures to the European Parliament and to the Council or to the Council to redress the budget situation. If, at the end of a budget year, the annual ceiling cannot be complied with as a result of the reimbursements requested by the Member States, the Commission should be able to take measures allowing the provisional distribution of the available budget among the Member States in proportion to their as yet unpaid requests for reimbursement, as well as measures ensuring compliance with the ceiling fixed for the year concerned. Payments for that year should be charged to the following budget year and the total amount of Union financing per Member State should be definitively established, as should compensation between Member States in order to ensure that the established amount is complied with.
- (22) When implementing the budget, the Commission should operate a monthly early-warning and monitoring system for agricultural expenditure so that, if there is a risk of the annual ceiling being exceeded, the Commission may at the earliest opportunity take the appropriate measures under the management powers at its disposal and propose other measures if those measures appear to be insufficient. A periodic report by the Commission to the European Parliament and to the Council should compare the evolution of the expenditure effected to date in relation to the profiles and should give an assessment of the foreseeable implementation for the remainder of the budget year.
- (23) The exchange rate used by the Commission when drawing up the budget documents should reflect the most recent information available, making allowances for the time lag between drafting and submission.
- (24) Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽¹⁾ lays down rules which apply to the financial support from the funds covered by that Regulation, including the EAFRD. Those rules also cover eligibility of expenditure, on financial management and the management and control systems. As regards the financial management of the EAFRD, for the sake of legal clarity and coherence between the Funds covered by this Regulation, reference should be made to the relevant provisions on the budget commitments, payment deadlines and decommitment of Regulation (EU) No 1303/2013.
- (25) The rural development programmes are financed from the Union budget on the basis of commitments made in annual instalments. Member States should be able to draw on the Union funds provided for as soon as they begin the programmes. A suitably restricted prefinancing system is therefore needed, to ensure a steady flow of funds so that payments to beneficiaries under the programmes are made at the appropriate time.

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

- (26) Prefinancing apart, it is necessary to make a distinction between the payments by the Commission to the accredited paying agencies interim payments and the payment of balances, and to lay down detailed rules on their payment. The automatic decommitment rule should help speed up execution of programmes and contribute to sound financial management. The rules on the national frameworks of Member States with regional programmes as set out in Regulation (EU) No 1305/2013 of the European Parliament and of the Council⁽¹⁾ also provide a tool for Member States to ensure execution and sound financial management.
- (27) Union aid should be paid to beneficiaries in good time so that they may use it efficiently. A failure by the Member States to comply with the payment deadlines laid down in Union law might create serious difficulties for the beneficiaries and could jeopardise the Union's yearly budgeting. Therefore, expenditure made without respecting deadlines for payments should be excluded from Union financing. The principle of proportionality laid down in Regulation (EC) No 1290/2005 should be maintained and should apply to both the Funds. In order to respect the principle of proportionality, the Commission should be able to provide for exceptions to this general rule.
- (28) Regulation (EC) No 1290/2005 provides for reductions and suspensions of monthly or interim payments for the Funds. Despite the rather broad wording of those provisions, in practice they are used essentially to reduce payments for non-compliance with payment deadlines, ceilings and similar "accounting issues" which can readily be detected in the declarations of expenditure. Those provisions also allow reductions and suspensions in case of serious and persistent deficiencies in national control systems. The imposition of such reductions and suspensions are, however, made subject to rather restrictive substantive conditions for doing so and providing for a special, two-step procedure to be followed. The European Parliament and the Council have repeatedly asked the Commission to suspend payments to non-compliant Member States. For these reasons, it is necessary to clarify the system provided for in Regulation (EC) No 1290/2005 for reductions and suspensions and to merge the rules on reductions and suspensions for both the Funds into one single Article. The system of reductions for "accounting issues" should be maintained in line with the existing administrative practice. The possibility of reducing or suspending payments where there are significant and persistent deficiencies in national control systems should be reinforced in order to provide the Commission with the possibility of suspending payments rapidly when serious deficiencies are detected. That possibility should also be extended to include negligence in the system for recovery of irregular payments.
- (29) Sectoral agricultural legislation requires Member States to send information on the numbers of checks carried out and on their outcomes within specified deadlines. Those control statistics are used to determine the level of error at Member State level and, more generally, for the purposes of checking the management of the Funds. The control statistics are an important source of information for the Commission to satisfy itself as to the correct management of the Funds and are an essential element of the annual declaration of assurance. Given the vital nature of the control statistics and in order to ensure that Member States respect their obligation to send it in time, it is necessary to provide a deterrent for late provision of the data required which is proportionate to the extent of the data deficit. Therefore, provisions should be put in place to allow the Commission to suspend part of the monthly or interim payments in respect of which the relevant statistical information has not been sent in time.
- (30) In order to allow funds from the Funds to be reused, rules are needed on the assignment of specific sums. The list contained in Regulation (EC) No 1290/2005 should be completed by adding to it the sums relating to late payments and to the clearance of accounts as regards expenditure under the EAGF. Also, Council Regulation (EEC) No 352/78⁽²⁾ laid down rules on the destinations of the sums resulting from forfeited securities. Those provisions should be harmonised and merged with the existing provisions on assigned revenue. Regulation (EEC) No 352/78 should therefore be repealed.
- (31) Council Regulation (EC) No 814/2000⁽³⁾ and its implementing rules define the information measures relating to the CAP which may be financed under point (c) of Article 5 of Regulation (EC) No 1290/2005. Regulation (EC) No 814/2000 contains a list of those measures and their objectives and fixes the rules on their financing and on the implementation of the corresponding projects. Since the adoption of that Regulation, rules have been adopted by Regulation (EU, Euratom) No 966/2012 on grants and procurement. Those rules should apply also to the information measures under the CAP. For reasons of simplification and coherence, Regulation (EC) No 814/2000 should be repealed while maintaining the

⁽¹⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (See page 487 of this Official Journal).

⁽²⁾ Council Regulation (EEC) No 352/78 of 20 February 1978 on the crediting of securities, deposits and guarantees furnished under the common agricultural policy and subsequently forfeited (OJ L 50, 22.2.1978, p. 1).

⁽³⁾ Council Regulation (EC) No 814/2000 of 17 April 2000 on information measures relating to the common agricultural policy (OJ L 100, 20.4.2000, p. 7).

specific provisions relating to the objectives and types of measures to be financed. Those measures should also take into account the need to ensure more efficiency in communication to the public at large and stronger synergies between the communication activities undertaken on the initiative of the Commission as well as of the need to ensure that the Union's political priorities are communicated effectively. Therefore, they should also cover information measures relevant to the CAP in the framework of the corporate communication as referred to in the Communication from the Commission: A Budget for Europe 2020 ("the Commission Communication on a Budget for Europe 2020") - Part II: Policy fiches.

- (32) The financing of measures and operations under the CAP in part involves shared management. To ensure that Union funds are soundly managed, the Commission should perform checks on the management of the Funds by the Member State authorities responsible for making payments. It is appropriate to define the nature of the checks to be performed by the Commission, to specify the terms of its responsibilities for implementing the budget and to clarify the Member States' cooperation obligations.
- (33) In order to allow the Commission to fulfil its obligation to check the existence and proper functioning of management and inspection systems for Union expenditure in the Member States, provision should be made, irrespective of the inspections carried out by Member States themselves, for checks by persons authorised by the Commission to act on its behalf who should be able to request assistance from the Member States in their work.
- (34) Information technology needs to be used as extensively as possible in order to produce the information to be sent to the Commission. When carrying out checks, the Commission should have full and immediate access to expenditure information recorded in both paper and electronic form.
- (35) In order to establish the financial relationship between the accredited paying agencies and the Union budget, the Commission should clear the accounts of those paying agencies annually (financial clearance of accounts). The decision of the clearance of accounts should cover the completeness, accuracy and veracity of the accounts but not the conformity of the expenditure with Union law.
- (36) The Commission is responsible for the implementation of the budget of the European Union in cooperation with Member States in accordance with Article 317 TFEU. The Commission is empowered to decide, by means of implementing acts, whether the expenditure effected by the Member States complies with Union law. Member States should be given the right to justify their decisions to make payments and should have recourse to conciliation where there is no common agreement between them and the Commission. In order to give Member States legal and financial assurances as to expenditure effected in the past, a maximum period should be set for the Commission to decide which financial consequences should follow from non-compliance. As regards the EAFRD, the conformity clearance procedure should be in line with the provisions on the financial corrections by the Commission as laid down in Part 2 of Regulation (EU) No 1303/2013.
- (37) As regards the EAGF, sums recovered should be paid back to that Fund where the expenditure is not in conformity with Union law and no entitlement existed. In order to allow sufficient time for all the necessary administrative proceedings, including internal checks, Member States should request recovery from the beneficiary within 18 months after a control report or similar document, stating that an irregularity has taken place, has been approved and, where applicable, received by the paying agency or body responsible for the recovery. Provision should be made for a system of financial responsibility where irregularities have been committed and where the total amount has not been recovered. In this respect a procedure should be established enabling the Commission to safeguard the interests of the Union budget by deciding on partial charging to the Member State concerned of the sums lost as a result of irregularities and not recovered within a reasonable period. In certain cases of negligence by the Member State, it is also right to charge the full sum to the Member State concerned. However, subject to Member States complying with obligations under their internal procedures, the financial burden should be divided fairly between the Union and the Member State. The same rules should apply to the EAFRD, subject however, to the requirement that sums recovered or cancelled following irregularities should remain available to the approved rural development programmes of the Member State concerned as those sums have been allocated to that Member State. Provisions on the reporting obligation for Member States should also be established.
- (38) The recovery procedures used by the Member States may have the effect of delaying recovery for a number of years, with no guarantee that the outcome will actually be successful. The cost of implementing those procedures may also be disproportionate to the amounts which are or may be collected. Consequently, Member States should be permitted to halt recovery procedures in certain cases.

- (39) In order to protect the financial interests of the Union's budget, measures should be taken by Member States to satisfy themselves that transactions financed by the Funds are actually carried out and are executed correctly. Member States should also prevent, detect and deal effectively with any irregularities or non-compliance with obligations committed by beneficiaries. To this end, Council Regulation (EC, Euratom) No 2988/95⁽¹⁾ should apply. In cases of infringement of the sectoral agricultural legislation, where detailed rules on administrative penalties have not been laid down by Union legal acts, Member States should impose national penalties which should be effective, dissuasive and proportionate.
- (40) The funding, under the CAP, of activities which generate additional costs in other policy areas covered by the general budget of the European Union, especially environment and public health, should be avoided. In addition, the introduction of new payment systems, and related monitoring and penalty systems, should not result in unnecessary additional administrative procedures and red tape.
- (41) Rules relating to the general principles applicable to checks, to withdrawals of undue payments and to the imposition of penalties are contained in various sectoral agricultural regulations. Those rules should be collected in the same legal framework at a horizontal level. They should cover the obligations of the Member States as regards administrative and on-the-spot checks, the purpose of which is to check compliance with the provisions of the CAP measures, and should cover the rules on the recovery of aid, and the reduction and exclusion of aid. Rules on checks of obligations not necessarily linked to the payment of an aid should be laid down as well.
- (42) Various provisions of the sectoral agricultural legislation require that a security be lodged to ensure the payment of a sum due if an obligation is not met. In order to strengthen the framework for securities, a single horizontal rule should apply to all those provisions.
- (43) Member State should set up and operate an integrated administration and control system (the "integrated system") for certain payments provided for in Regulation (EU) No 1307/2013 and in Regulation (EU) No 1305/2013. In order to improve the effectiveness and monitoring of Union support, Member States should be authorised to make use of the integrated system for other Union support schemes.
- (44) The main elements of the integrated system and, in particular, the provisions concerning a computerised database, an identification system for agricultural parcels, aid applications or payment claims and a system for the identification and recording of payment entitlements should be maintained, whilst taking into account the evolution of the policy, in particular, by the introduction of payment for agricultural practices beneficial for the climate and the environment and the ecological benefits of landscape features. With a view to reducing the administrative burden and ensuring efficient and effective controls, Member States should make appropriate use of technology when setting up those systems.
- (45) For the purpose of creating a reference layer in the identification system for agricultural parcels that is adapted to the ecological focus areas, Member States should be able to take account of specific information which may be required from farmers in their applications for claim years 2015 to 2017, such as the identification of those landscape features or other areas which may qualify as ecological focus areas and, where necessary, the size of such features and other areas.
- (46) Competent national authorities should make the payments provided for in Union support schemes covered by the integrated system to beneficiaries in full, subject to any reductions provided for in this Regulation, and within the prescribed periods. In order to render the management of direct payments more flexible, Member States should be allowed to make payments covered by the integrated system in up to two instalments per year.
- (47) Scrutiny of the commercial documents of undertakings that are receiving or making payments can be a very effective means of surveillance of transactions forming part of the system of financing by the EAGF. The provisions on the scrutiny of the commercial documents are laid down in Council Regulation (EC) No 485/2008⁽²⁾. That scrutiny supplements other checks already carried out by the Member States. Furthermore, where national provisions relating to scrutiny are more extensive than those provided for in that Regulation, they are not affected by it.
- (48) Under Regulation (EC) No 485/2008, Member States should take the measures necessary to ensure effective protection of the financial interests of the Union budget, and in particular, in order to check the genuineness and compliance of operations financed by the EAGF. In the interests of clarity and rationalisation, the relevant provisions should be integrated into the same act. Regulation (EC) No 485/2008 should therefore be repealed.

⁽¹⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽²⁾ Council Regulation (EC) No 485/2008 of 26 May 2008 on scrutiny by Member States of transactions forming part of the system of financing by the European Agricultural Guarantee Fund (OJ L 143, 3.6.2008, p. 1).

- (49) The documents used as a basis for such scrutiny should be determined in such a way as to enable a full scrutiny to be carried out. The undertakings to be scrutinised should be selected on the basis of the nature of the transactions carried out under their responsibility and the breakdown per sector of the undertakings receiving or making payments should be selected according to their financial importance in the system of financing by the EAGF.
- (50) The powers of the officials responsible for scrutiny and the obligations on undertakings to make commercial documents available to such officials for a specified period, as well as to supply such information as may be requested by them, should be defined. It should be possible for commercial documents to be seized in certain cases.
- (51) Having regard to the international structure of agricultural trade and in the interest of the functioning of the internal market, it is necessary to organise cooperation among the Member States. It is also necessary to set up a centralised documentation system at Union level concerning undertakings receiving or making payments established in third countries.
- (52) While it is the responsibility of the Member States to adopt their scrutiny programmes, it is necessary for those programmes to be communicated to the Commission so that it can assume its supervisory and coordinating role, in order to ensure that the programmes are adopted on the basis of appropriate criteria and to guarantee that the scrutiny is concentrated on sectors or undertakings where the risk of fraud is high. It is essential that each Member State has a special department responsible for monitoring the scrutiny of commercial documents provided for in this Regulation or for coordinating that scrutiny. Those special departments should be organised independently of the departments carrying out scrutiny prior to payment. Information collected during that scrutiny should be protected by professional confidentiality.
- (53) Council Regulation (EC) No 1782/2003⁽¹⁾, which was replaced by Regulation (EC) No 73/2009, established the principle that the full payment to beneficiaries of some supports under the CAP should be linked to compliance with rules relating to land management, agricultural production and agricultural activity. That principle was subsequently reflected in Council Regulation (EC) No 1698/2005⁽²⁾ and Council Regulation (EC) No 1234/2007⁽³⁾.
- Under the resulting 'cross-compliance' system Member States are to impose penalties in the form of the reduction or exclusion of support received under the CAP in whole or in part.
- (54) That cross-compliance system incorporates in the CAP basic standards concerning the environment, climate change, good agricultural and environmental condition of land, public health, animal health, plant health and animal welfare. Cross-compliance aims to contribute to the development of sustainable agriculture through better awareness on the part of beneficiaries of the need to respect those basic standards. It aims also to contribute to make the CAP more compatible with the expectation of society through improving consistency of that policy with the environment, public health, animal health, plant health and animal welfare policies. The cross-compliance system forms an integral part of the CAP and should therefore be maintained. Its scope, however, which consists so far in separate lists of statutory management requirements and standards of good agricultural and environmental condition of land should be streamlined so that consistency of the cross-compliance system is ensured and made more visible. For this purpose, the requirements and standards should be organised in a single list and grouped by areas and issues. Experience has also shown that a number of the requirements within the scope of cross-compliance are not sufficiently relevant to farming activity or the area of the holding or concern national authorities rather than beneficiaries. Consequently, that scope should be adjusted. Provision should furthermore be made for the maintenance of permanent pasture in 2015 and 2016.
- (55) Statutory management requirements need to be fully implemented by Member States in order to become operational at farm level and ensure the necessary equal treatment of farmers.
- (56) According to Article 22 of Directive 2000/60/EC, Council Directive 80/68/EEC⁽⁴⁾ is to be repealed on 23 December 2013. In order to maintain the same cross-compliance rules relating to protection of groundwater as those laid down in Directive 80/68/EEC as at the last day of the validity of that Directive, it is

⁽¹⁾ Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

⁽³⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

⁽⁴⁾ Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (OJ L 20, 26.1.1980, p. 43).

appropriate to adjust the scope of cross-compliance and to define a standard of good agricultural and environmental condition that encompasses the requirements of Articles 4 and 5 of that Directive.

- (57) The cross-compliance system implies certain administrative constraints for both beneficiaries and national administrations since record keeping has to be ensured, checks have to be carried out and where necessary penalties have to be applied. Those penalties should be proportionate, effective and dissuasive. Such penalties should be without prejudice to other penalties laid down under Union or national law. For the sake of consistency, it is appropriate to merge the relevant Union provisions into one single legal instrument. For farmers participating in the small farmers scheme referred to in Title V of Regulation (EU) No 1307/2013, the efforts to be made under the cross-compliance system might be considered to exceed the benefit of keeping those farmers under that system. For reasons of simplification, those farmers should therefore be exempted from cross-compliance and in particular from its control system and from the risk of cross-compliance penalties. However, that exemption should be without prejudice to the obligation to respect the applicable provisions of the sectoral law or to the possibility to be checked and to be imposed penalties under that law.
- (58) Regulation (EC) No 1782/2003 established a framework of standards of good agricultural and environmental condition of the land within which Member States are to adopt national standards taking account of the specific characteristics of the areas concerned, including soil and climatic conditions and existing farming systems (land use, crop rotation, farming practices) and farm structures. Those standards of good agricultural and environmental condition of the land aim to contribute to preventing soil erosion, maintaining soil organic matter and soil structure, ensuring a minimum level of maintenance, avoiding the deterioration of habitats and protecting and managing water. The wider scope of the cross-compliance system as laid down in this Regulation should therefore include a framework within which Member States are to adopt national standards of good agricultural and environmental condition. The Union framework should also include rules to better address water, soil, carbon stock, biodiversity and landscape issues as well as minimum level of maintenance of the land.
- (59) Beneficiaries should understand their compliance obligations clearly in relation to the rules on cross-compliance. For that purpose, all requirements and standards forming part of those rules should be communicated by Member States in an exhaustive, understandable and explanatory way, including, where possible, by electronic means.
- (60) An effective implementation of cross-compliance requires verification that obligations are respected at the level of

beneficiaries. Where a Member State decides to make use of the option not to apply a reduction or exclusion where the amount concerned is less than EUR 100, the competent control authority should, for a sample of beneficiaries in the following year, verify that the non-compliance concerned has been remedied.

- (61) To ensure harmonious cooperation between the Commission and the Member States regarding the financing of CAP expenditure and, more particularly, to allow the Commission to monitor the financial management by the Member States and to clear the accounts of the accredited paying agencies, it is necessary for certain information to be communicated by the Member States or to be kept available to the Commission.
- (62) For the purposes of compiling the data to be sent to the Commission, and to allow the Commission to have full immediate access to expenditure data in both paper and electronic form, suitable rules on the presentation and transmission of data, including rules on time limits, need to be laid down.
- (63) As personal data or business secrets might be involved in the application of the national control systems and the conformity clearance, the Member States and the Commission should guarantee the confidentiality of the information received in that context.
- (64) In the interests of sound financial management of the Union's budget and impartiality of treatment at both Member State and beneficiary level, rules on the use of the euro should be laid down.
- (65) The rate of exchange of the euro into national currencies may vary in the course of the period during which an operation is carried out. Therefore, the rate applicable to the amounts concerned should be determined taking into account the event through which the economic objective of the operation is achieved. The rate of exchange applied should be that applicable for the date on which that event occurs. It is necessary to specify this operative event or to waive its application, whilst complying with certain criteria and in particular those concerning the rapidity with which currency movements are passed on. Those criteria are laid down in Council Regulation (EC) No 2799/98⁽¹⁾ and they complete similar provisions of Regulation (EC) No 1290/2005. In the interests of clarity and rationalisation, the relevant provisions should be integrated into the same act and Regulation (EC) No 2799/98 should therefore be repealed.

⁽¹⁾ Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro (OJ L 349, 24.12.1998, p. 1).

- (66) Special rules should be laid down for dealing with exceptional monetary situations arising either within the Union or on the world market and requiring immediate action to ensure that the arrangements established under the CAP operate effectively.
- (67) Member States that have not adopted the euro should have the option of making payments for expenditure resulting from the CAP legislation in euro rather than in national currency. Specific rules are needed to ensure that this option does not lead to any unjustified advantage for parties making or receiving payment.
- (68) Each measure under the CAP should be subject to monitoring and evaluation in order to improve its quality and to demonstrate its achievements. In this context a list of indicators should be determined and the performance of the CAP should be assessed by the Commission in relation to the policy objectives of viable food production, the sustainable management of natural resources and climate action and balanced territorial development. In assessing, in particular, the performance of the CAP in relation to the objective of viable food production, all relevant factors, including the evolution of input prices, should be taken into account. The Commission should set up a framework for a common monitoring and evaluation system ensuring inter alia that relevant data, including information from Member States is available on a timely manner. In so doing it should take account of the data needs and of the synergies between potential data sources. Moreover, the Commission Communication on A Budget for Europe 2020 - Part II stated that the climate related expenditure in the overall Union budget should increase to at least 20 %, with contributions from different policies. The Commission should therefore be able to assess the impact of the Union's support within the framework of the CAP, for climate objectives.
- (69) Union law concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data is applicable, in particular Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾.
- (70) In its judgment of 9 November 2010 in Joined Cases C-92/09 and 93/09 ⁽³⁾ *Volker und Markus Schecke GbR and Hartmut Eifert v Land Hessen* the Court of Justice of the European Union declared point (8b) of Article 42 and Article 44a of Regulation (EC) No 1290/2005 and Commission Regulation (EC) No 259/2008 ⁽⁴⁾ to be invalid in so far as, with regard to natural persons benefiting from the European agricultural funds, those provisions imposed an obligation to publish personal data relating to each beneficiary without drawing a distinction based on relevant criteria such as the periods during which those persons have received such aid, the frequency of such aid or the nature and amount thereof.
- (71) Following that judgment and pending the adoption of new rules taking account of the objections expressed by the Court, Regulation (EC) No 259/2008 was amended by Commission Implementing Regulation (EU) No 410/2011 ⁽⁵⁾ in order to expressly lay down that the obligation to publish the information is not to apply to natural persons.
- (72) In September 2011, the Commission organised a consultation of stakeholders that brought together representatives of professional agricultural and trade organisations, representatives of the food industry and workers, as well as representatives of civil society and Union institutions. In the course of that consultation different options were put forward concerning the publication of data of natural persons benefiting from Union agricultural funds and concerning respect for the principle of proportionality when making relevant information available to the public. That conference discussed the need to publish the names of natural persons in order to respond to the objective of better protection of the Union's financial interests, to enhance transparency and to highlight the achievements of beneficiaries in providing public goods while ensuring that that publication does not go beyond what is necessary for achieving these legitimate aims.
- (73) In its judgment in *Volker und Markus Schecke GbR and Hartmut Eifert v Land Hessen*, the Court did not contest the legitimacy of the objective of reinforcing public control of the use of the money from the Funds. However, the Court did emphasise the need to consider methods of publishing information relating to the beneficiaries concerned which are consistent with the objective of such publication while at the same time causing less interference with those beneficiaries' right to respect for their private life in general and to protection of their personal data in particular.
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- ⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).
- ⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).
- ⁽³⁾ [2010] ECR I-11063.
- ⁽⁴⁾ Commission Regulation (EC) No 259/2008 of 18 March 2008 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ L 76, 19.3.2008, p. 28).
- ⁽⁵⁾ Commission Implementing Regulation (EU) No 410/2011 of 27 April 2011 amending Regulation (EC) No 259/2008 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the publication of information on the beneficiaries of funds deriving from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) (OJ L 108, 28.4.2011, p. 24).

- (74) The objective of reinforcing public control in respect of individual beneficiaries should be analysed in the light of the new financial management and control framework to be applied from 1 January 2014 and in the light of experience gained in Member States. Within that new framework, it is not possible for the controls by the national administrations to be exhaustive, in particular, since for almost all schemes, only a limited part of the population can be checked on-the-spot. Moreover, that new framework provides that, subject to certain conditions, Member States may reduce the number of on-the-spot checks.
- A sufficient increase of the minimum control rates would, in the present context, put such an additional financial and administrative burden on the national administrations that those administrations would be unable to cope.
- (75) Against that background, the publication of the name of the beneficiaries of the Funds provides a means of reinforcing the public control of the use of the Funds and, therefore, is a useful addition to the existing management and control framework and is necessary to ensure an adequate level of protection of the Union's financial interest. That is achieved partly by the preventive and deterrent effect of such publication, partly by discouraging individual beneficiaries from irregular behaviour and also partly by reinforcing the personal accountability of the farmers for use of public funds received.
- (76) In this context the role played by civil society, including by the media and non-governmental organisations and their contribution to reinforcing the administrations' control framework against fraud and any misuse of public funds, should be properly recognised.
- (77) The publication of the relevant information is also consistent with the approach as set out in Regulation (EU, Euratom) No 966/2012.
- (78) Alternatively, the objective of reinforcing public control in respect of individual beneficiaries could be served by providing for an obligation on Member States to ensure public access to the relevant information upon request, without publication. This would however be less effective and run the risk of creating unwanted divergencies in implementation. Consequently, national authorities should be enabled to rely on the public control in respect of individual beneficiaries through the publication of their names and other relevant data.
- (79) If the objective of the public control of the use of the money from the Funds is to be achieved, a certain level of information about beneficiaries needs to be brought to the attention of the public. That information should include data on the identity of the beneficiary, the amount awarded and the fund from which it comes and the purpose and the nature of the measure concerned. The publication of that information should be made in such a way as to cause less interference with the beneficiaries' right to respect for their private life, in general, and to their right to protection of their personal data, in particular, both rights which are recognised in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.
- (80) In order to ensure that this Regulation complies with the principle of proportionality, the legislator has explored all the alternative means of attaining the objective of public control of the use of the money from the Funds, as analysed in a memorandum set out in the Annex to Council document 6370/13, and has chosen the one which would cause the least interference with the individual rights concerned.
- (81) Publishing details about the measure entitling the farmer to receive aid or support and about the nature and the purpose of the aid or support provides the public with concrete information on the subsidised activity and the purpose for which the aid or support was granted. This would also contribute to the preventive and deterrent effect of the public control in the protection of the financial interest.
- (82) In order to strike a balance between the objective of the public control of the use of the money from the Funds, on the one hand, and the beneficiaries' right to respect for their private life, in general, and to protection of their personal data, in particular, on the other hand, the importance of the aid should be taken into account. Following extensive analysis and consultation with the stakeholders it appears that, in order to reinforce the effectiveness of such publication and to limit the interference with the beneficiaries' rights, it is necessary to set a threshold expressed in terms of the amount of aid received, below which the name of the beneficiary should not be published.
- (83) That threshold should be de-minimis and should reflect and be based on the level of the support schemes set up within the framework of the CAP. As the structures of the Member States' agricultural economies vary considerably and may differ significantly from the average Union farm structure, the application of different minimum thresholds that reflect the particular situation of the Member States should be allowed. Regulation (EU) No 1307/2013 sets out a simple and specific scheme for small farms. Article 63 of that Regulation lays down criteria for calculating the amount of aid. For reasons of consistency, in the case of Member States applying the scheme, the threshold to be taken into account should be set at the same level as the amounts fixed by the Member State as referred to in the second subparagraph of Article 63(1) or the second subparagraph of Article 63(2) of that Regulation. In the case of Member States deciding not to apply that scheme, the threshold to be taken into account should be set at the same level as the maximum amount of aid possible under the scheme, as provided for in Article 63 of Regulation (EU) No 1307/2013. Below that specific threshold the publication should contain all the relevant information, except for the name, in order to allow the taxpayers to have an accurate image of the CAP.

- (84) Making that information accessible to the public, in combination with the general information to the public provided for in this Regulation, enhances transparency regarding the use of Union funds in the CAP, thus contributing to the visibility and better understanding of that policy. It enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy, and is more effective and is more accountable to the citizen. It also brings concrete examples of the provision of "public goods" by farming to the attention of citizens, thereby underpinning the legitimacy of state support for the agricultural sector.
- (85) Therefore it must be considered that providing for the general publication of the relevant information does not go beyond what is necessary in a democratic society in view of the need to protect the Union's financial interests as well as, the overriding weight of the objective of the public control of the use of the money from the Funds.
- (86) In order to comply with the data protection requirements, beneficiaries of the Funds should be informed of the publication of their data before that publication takes place. They should also be informed that that data may be processed by auditing and investigating bodies of the Union and Member States for the purpose of safeguarding the Union's financial interests. Furthermore, the beneficiaries should be informed about their rights under Directive 95/46/EC and the procedures applicable for exercising these rights.
- (87) Consequently, after having conducted an in-depth analysis and assessment of the most appropriate way to observe the right to protection of personal data of the beneficiaries, based, moreover, on the information provided by the Commission during the negotiations of this Regulation, new rules on the publication of information on all beneficiaries of the Funds should be laid down in this Regulation.
- (88) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission.
- (89) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to: the procedures for the issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies as well as for the supervision of the accreditation of paying agencies; the rules on the work and checks underlying the management declaration of the paying agencies, the functioning of the coordinating body and the notification of information to the Commission by that coordinating body; the rules concerning the tasks of the certification bodies, including the checks, and on the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies. Those implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (90) The implementing powers of the Commission should also cover: the audit principles on which the opinions of the certification bodies are based, including an assessment of the risks, internal controls and the level of audit evidence required, the audit methods to be used by the certification bodies, having regard to international standards on auditing to deliver their opinions, including, where appropriate, the use of a single integrated sample for each population and, where appropriate, the possibility of accompanying paying agencies when they carry out on-the-spot checks.
- (91) They should also cover: rules for the uniform implementation of the farm advisory system, the determination of the EAGF monthly payments to the Member States; the setting of the amounts for the financing of public intervention measures; rules relating to the financing of the acquisition by the Commission of the satellite images required for the checks and the measures taken by the Commission through remote-sensing applications used for the monitoring of agricultural resources; the procedure for the carrying out of the acquisition by the Commission of those satellite images and the monitoring of agricultural resources, the framework governing the acquisition, enhancing and utilisation of satellite images and meteorological data, and the applicable deadlines.
- (92) They should also cover: in the context of the financial discipline procedure, the adjustment rate for the direct payments as well as its adaptation as well as the terms and conditions applicable to appropriations carried over in accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 in order to finance the direct payments; in the context of the budget discipline procedure, the provisional setting of the amount of the payments and the provisional distribution of the available budget among the Member States.
- (93) Furthermore, the implementing powers of the Commission should cover: the setting of the period within which the accredited paying agencies must establish and forward, to the Commission, intermediate declarations of expenditure relating to rural development programmes; the reduction or suspension of the monthly or interim payments to Member States; details on the keeping of separate accounts by the paying agencies; specific conditions applying to the information to be booked in the accounts kept by the paying agencies; rules on the financing and accounting of intervention
- ⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

measures in the form of public storage, and other expenditure financed by the Funds, the terms and conditions governing the implementation of the automatic decommitment procedure, the procedure and other practical arrangements for the proper functioning of the suspension of payments by the Commission to Member States in the case of late submission of information by Member States.

(94) Moreover, the implementing powers of the Commission should cover: the procedures relating to the specific obligations which the Member States have to comply with in relation to checks; the procedures relating to the cooperation obligations to be complied with by the Member States as regards the on-the-spot checks carried out by the Commission and access to information; the procedures and other practical arrangements relating to the obligation to report irregularities and fraud, the conditions under which the supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by the Union law must be kept; the clearance of accounts and the conformity clearance, the exclusion from Union financing of sums charged to the Union's budget, the procedures for the recovery of undue payments and interest and the forms of notification and communication to be made by the Member States to the Commission in relation to irregularities.

(95) The implementing powers of the Commission should also cover: rules aiming at reaching a uniform application of Member States' obligations regarding the protection of the financial interests of the Union, the necessary rules aiming at reaching a uniform application of checks in the Union, the application and calculation of the partial or total withdrawal of payments or payment entitlements; the recovery of undue payments and penalties as well as in respect of unduly allocated payment entitlements and the application of interest. They should also cover: the application and the calculation of the administrative penalties, the detailed rules for identifying a non-compliance as minor, the rules identifying the cases in which, due to the nature of the penalties, Member States may retain the penalties recovered; and the suspension of monthly payments in specific cases covered by Regulation (EU) No 1308/2013.

(96) The implementing powers of the Commission should cover: the form of the securities to be lodged and the procedure for lodging the securities, for accepting them, and for replacing the original securities; the procedures for the release of securities and the notification to be made by Member States or by the Commission in the context of securities; They should also cover: rules which are both necessary and justifiable in an emergency in order to resolve specific problems in relation to payment periods and the payment of advances; rules on the aid applications and payments claims, the applications for payment entitlements, including the final date

for submission of applications, the requirements as to the minimum amount of information to be included in the applications, provisions for amendments to or the withdrawal of aid applications, exemption from the requirement to submit aid applications and provisions which allow Member States to apply simplified procedures or to correct obvious errors.

(97) Likewise, the implementing powers of the Commission should cover: rules on the carrying out of checks in order to verify compliance with obligations, and the correctness and completeness of the information provided in the aid application or payment claim, including rules on measurement tolerances for on-the-spot checks, technical specifications needed for the purpose of the uniform implementation of the integrated administration and control system; rules on situations of transfer of holdings accompanied by the transfer of any obligation concerning eligibility in respect of the aid in question which still needs to be fulfilled; and rules on the payment of advances. They should also cover: rules aiming at ensuring a uniform application of the rules on the scrutiny of commercial documents; the procedures relating to Member States' own databanks and to the analytical databank of isotopic data that will help detect fraud; the procedures relating to cooperation and assistance between control authorities and bodies, rules for performing the checks for compliance with marketing standards, rules on the authorities responsible for performing the checks, as well as on the content, the frequency and the marketing stage to which those checks are to apply.

(98) The implementing powers of the Commission should also cover: in the context of the checks related to designation of origin and geographical indications and protected traditional terms, the communications to be made by the Member States to the Commission; the rules on the authority responsible for the verification of compliance with the product specification, including where the geographical area is a third country, the actions to be implemented by the Member States to prevent the unfaithful use of protected designations of origin, protected geographical indications and protected traditional terms, the checks and verifications to be carried out by Member States, including testing.

They should also cover: rules on the carrying out of checks in order to verify compliance with the cross-compliance obligations; detailed procedural and technical rules concerning the calculation and application of administrative penalties for non-compliance with cross-compliance requirements; rules pertaining to communication of information by Member States to the Commission as referred to in Article 104; and measures to safeguard the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it;

- (99) Furthermore, the implementing powers of the Commission should cover: the set of indicators specific to the monitoring and evaluation of the CAP; rules on the information to be sent by the Member States to the Commission for the purposes of the monitoring and evaluation of the CAP; rules on the form and the calendar of the publication of the beneficiaries of the Funds, the uniform application of the obligation to inform the beneficiaries that their data will be made public, and the cooperation between the Commission and Member States in the context of the publication of the beneficiaries of the Funds.
- (100) The advisory procedure should be used for the adoption of certain implementing acts. With regard to the implementing acts involving the calculation of amounts by the Commission the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and aims to increase efficiency, predictability and rapidity, when complying with the time limits and the budgetary procedures. With regard to the implementing acts related to payments made to the Member States and the operation of the clearance of accounts procedure, the advisory procedure enables the Commission to fully assume its responsibility of managing the budget and verifying the annual accounts of the national paying agencies with a view to accepting such accounts or, in the case of expenditure not effected in compliance with Union rules, to excluding such expenditure from Union financing. In other cases, the examination procedure should be used for the adoption of implementing acts.
- (101) The Commission should be empowered to adopt implementing acts without the application of Regulation (EU) No 182/2011 concerning the setting of the net balance available for EAGF expenditure and making supplementary payments or deductions in the context of the procedure for monthly payments.
- (102) Since the transition from the system under the Regulations repealed by this Regulation to the system in this Regulation could give rise to practical and specific difficulties, provision should be made for the Commission to adopt the necessary and duly justified measures.
- (103) Due to the urgency of preparing the smooth implementation of the measures envisaged, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*.
- (104) As the programming period for the rural development programmes financed on the basis of this Regulation runs from 1 January 2014, this Regulation should be applicable as from that date. However, since the agricultural financial year covers expenditure paid and revenue received and entered in the accounts of the Funds budget by the paying agencies in respect of financial year "N" beginning on 16 October of year "N-1" and ending on 15 October of year "N", the provisions relating to the accreditation and withdrawal of accreditation of paying agencies and coordinating bodies and the Commission's relevant powers, to the financial management of the Funds such as the budget ceiling, the reserve for crises in the agricultural sector, the financial discipline, and to the assignment of revenue should apply as from an earlier date corresponding to the beginning of the financial year 2014 (i.e. 16 October 2013). For the same reason, the provisions relating to the procedure for monthly payments made by the Commission to Member States and the compliance by the paying agencies with the payment deadlines should apply to the expenditure effected as of the beginning of the financial year 2014 (i.e. 16 October 2013).
- (105) The European Data Protection Supervisor was consulted and adopted an opinion ⁽¹⁾.
- (106) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States given the links between it and the other instruments of the CAP and the limits on the financial resources of the Member States in an enlarged Union, but can rather, by reason of the multiannual guarantee of Union finance and by concentrating on its priorities, 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 (TEU). 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 those objectives,

HAVE ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation lays down the rules on:

- (a) the financing of expenditure under the Common Agricultural Policy (CAP), including expenditure on rural development;
- (b) the farm advisory system;
- (c) the management and control systems to be put in place by the Member States;
- (d) the cross-compliance system;
- (e) clearance of accounts.

⁽¹⁾ OJ C 35, 9.2.2012, p. 1.

Article 2

Terms used in this Regulation

1. For the purpose of this Regulation:
 - (a) "farmer", means a farmer within the meaning of Article 4 of Regulation (EU) 1307/2013;
 - (b) "agricultural activity" means an agricultural activity within the meaning of Article 4 of Regulation (EU) 1307/2013;
 - (c) "agricultural area" means an agricultural area within the meaning of Article 4 of Regulation (EU) 1307/2013;
 - (d) "holding" means holding within the meaning of Article 4 of Regulation (EU) 1307/2013, save as provided for in Article 91(3);
 - (e) "direct payments" means direct payments within the meaning of Article 1 of Regulation (EU) 1307/2013;
 - (f) "sectoral agricultural legislation" means any applicable acts adopted within the framework of the CAP on the basis of Article 43 TFEU as well as, where applicable, any delegated or implementing acts adopted on the basis of such acts, and Part Two of Regulation (EU) No 1303/2013 insofar as it applies to the EAFRD;
 - (g) "irregularity" means an irregularity within the meaning of Article 1(2) of Regulation (EC, Euratom) No 2988/95.
2. For the purposes of the financing, management and monitoring of the CAP, "force majeure" and "exceptional circumstances" may, in particular, be recognised in the following cases:
 - (a) the death of the beneficiary;
 - (b) long-term professional incapacity of beneficiary;
 - (c) a severe natural disaster gravely affecting the holding;
 - (d) the accidental destruction of livestock buildings on the holding;
 - (e) an epizootic or a plant disease affecting part or all of the beneficiary's livestock or crops respectively;
 - (f) expropriation of all or a large part of the holding if that expropriation could not have been anticipated on the day of lodging the application.

TITLE II

GENERAL PROVISIONS ON AGRICULTURAL FUNDS

CHAPTER I

Agricultural Funds

Article 3

Funds financing agricultural expenditure

1. In order to achieve the objectives of the CAP as set out in the TFEU, the financing of the various measures falling under that policy, including rural development shall be made by:
 - (a) the European Agricultural Guarantee Fund (EAGF);
 - (b) the European Agricultural Fund for Rural Development (EAFRD).
2. The EAGF and the EAFRD (the "Funds") shall come under the general budget of the European Union (the Union's budget).

Article 4

EAGF expenditure

1. The EAGF shall be implemented in shared management between the Member States and the Union. It shall finance the following expenditure, which shall be effected in accordance with Union law:
 - (a) measures regulating or supporting agricultural markets;
 - (b) direct payments to farmers under the CAP;
 - (c) the Union's financial contribution to information and promotion measures for agricultural products on the internal market of the Union and in third countries, undertaken by Member States on the basis of programmes other than those referred to in Article 5 and which are selected by the Commission;
 - (d) the Union's financial contribution to the Union School Fruit and Vegetables Scheme as referred to in Article 23 of Regulation (EU) No 1308/2013 and to the measures related to animal diseases and loss of consumer confidence as referred to in Article 155 of that Regulation.
2. The EAGF shall finance the following expenditure in a direct manner and in accordance with Union law:
 - (a) promotion of agricultural products, undertaken either directly by the Commission or through international organisations;
 - (b) measures, taken in accordance with Union law, to ensure the conservation, characterisation, collection and utilisation of genetic resources in agriculture;

- (c) the establishment and maintenance of agricultural accounting information systems;
- (d) agricultural survey systems, including surveys on the structure of agricultural holdings.

Article 5

EAFRD expenditure

The EAFRD shall be implemented in shared management between the Member States and the Union. It shall finance the Union's financial contribution to rural development programmes implemented in accordance with the Union law on support for rural development.

Article 6

Other expenditure, including technical assistance

The Funds may each, finance, in a direct manner, on the initiative of the Commission and/or on its behalf, the preparatory, monitoring, administrative and technical support activities, as well as evaluation, audit and inspection measures required to implement the CAP. Those measures shall include, in particular:

- (a) measures required for the analysis, management, monitoring, information exchange and implementation of the CAP, as well as measures relating to the implementation of control systems and technical and administrative assistance;
- (b) the acquisition by the Commission of the satellite images required for the checks in accordance with Article 21;
- (c) the measures taken by the Commission through remote-sensing applications used for the monitoring of agricultural resources in accordance with Article 22;
- (d) measures required to maintain and develop methods and technical means for information, interconnection, monitoring and control of the financial management of the funds used to finance the CAP;
- (e) provision of information on the CAP in accordance with Article 45;
- (f) studies on the CAP and evaluations of measures financed by the Funds, including improvement of evaluation methods and exchange of information on practices under the CAP;
- (g) where relevant, executive agencies that are set up in accordance with Council Regulation (EC) No 58/2003⁽¹⁾, acting in connection with the CAP;
- (h) measures relating to dissemination of information, raising awareness, promoting cooperation and exchanging experience at Union level, taken in the context of rural development, including the networking of the parties concerned;

⁽¹⁾ Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1).

- (i) measures required for the development, registration and protection of logos within the framework of the Union quality policies and for the protection of intellectual property rights linked to it, as well as the necessary information technology (IT) developments.

CHAPTER II

Paying agencies and other bodies

Article 7

Accreditation and withdrawal of accreditation of paying agencies and coordinating bodies

1. Paying agencies shall be departments or bodies of the Member States responsible for the management and control of expenditure referred to in Article 4(1) and Article 5.

With the exception of payment, the carrying out of those tasks may be delegated

2. Member States shall accredit as paying agencies departments or bodies which have an administrative organisation and a system of internal control which provide sufficient guarantees that payments are legal and regular, and properly accounted for. To this end, paying agencies shall comply with minimum conditions for the accreditation with regard to internal environment, control activities, information and communication and monitoring laid down by the Commission pursuant to point (a) of Article 8(1).

Each Member State shall, taking into account its constitutional provisions, restrict the number of its accredited paying agencies to no more than one at national level or, where applicable, to one per region. However, where paying agencies are established at regional level, Member States shall, in addition, either accredit a paying agency at national level for aid schemes which, by their nature, have to be managed at national level or shall confer the management of these schemes on their regional paying agencies.

By way of derogation from the second subparagraph, Member States may maintain the number of paying agencies which have been accredited before 20 December 2013.

Before the end of 2016, the Commission shall present a report to the European Parliament and to the Council on the operation of the system of paying agencies in the Union accompanied, where appropriate, by legislative proposals.

3. By 15 February of the year following the financial year concerned, the person in charge of the accredited paying agency shall draw up:

- (a) the annual accounts for the expenditure effected in carrying out the tasks entrusted to their accredited paying agencies, accompanied by the requisite information for their clearance in accordance with Article 51;

- (b) a management declaration as to the completeness, accuracy and veracity of the accounts and the proper functioning of the internal control systems, based on objective criteria, as well as to the legality and regularity of the underlying transactions;
- (c) an annual summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of the errors and of weaknesses in systems identified, as well as corrective action to be taken or planned.

The deadline of 15 February may be exceptionally extended by the Commission to 1 March at the latest, upon communication by the Member State concerned.

4. Where more than one paying agency is accredited, the Member State shall designate a public body ("the coordinating body"), to which it shall assign the following tasks:

- (a) to collect the information to be made available to the Commission and to send that information to the Commission;
- (b) to take or coordinate, as the case may be, actions with a view to resolving any deficiencies of a common nature and keep the Commission informed of any follow-up;
- (c) to promote and, where possible, ensure harmonised application of the Union rules.

As regards the processing of the financial information referred to in point (a) of the first subparagraph, the coordinating body shall be subject to specific accreditation by the Member States.

5. Where an accredited paying agency does not meet or no longer meets one or more of the accreditation criteria referred to in paragraph 2, the Member State, acting on its own initiative or at the request of the Commission, shall withdraw that accreditation unless the paying agency makes the necessary changes within a period to be determined depending on the severity of the problem.

6. The paying agencies shall manage and ensure the control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field.

Article 8

Commission powers

1. To ensure the sound operation of the system provided for in Article 7, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning:

- (a) the minimum conditions for the accreditation of paying agencies and of the coordinating bodies referred to in Article 7(2) and in Article 7(4), respectively;

- (b) the obligations of the paying agencies as regards public intervention, as well as the rules on the content of their management and control responsibilities.

2. The Commission shall adopt implementing acts laying down rules on:

- (a) the procedures for issuing, withdrawing and reviewing accreditation of paying agencies and coordinating bodies, as well as the procedures for the supervision of the accreditation of paying agencies;
- (b) the work and checks underlying the management declaration of the paying agencies;
- (c) the functioning of the coordinating body and the notification of information to the Commission as referred to in Article 7(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 9

Certification bodies

1. The certification body shall be a public or private audit body designated by the Member State. Where it is a private audit body, and the applicable Union or national law so requires, it shall be selected by the Member State by means of a public tendering procedure. It shall provide an opinion, drawn up in accordance with internationally accepted audit standards, on the completeness, accuracy and veracity of the annual accounts of the paying agency, on the proper functioning of its internal control system and on the legality and regularity of the expenditure for which reimbursement has been requested from the Commission. That opinion shall also state whether the examination puts in doubt the assertions made in the management declaration.

The certification body shall have the necessary technical expertise. It shall be operationally independent from the paying agency and the coordinating body concerned as well as from the authority which has accredited that agency.

2. The Commission shall adopt implementing acts laying down rules on the tasks of the certification bodies, including the checks, and on the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies. In view of the need for maximum efficiency, for transaction testing and for professional audit judgment, in the context of an integrated approach, the implementing acts shall also lay down:

- (a) the audit principles on which the opinions of the certification bodies are based, including an assessment of the risks, internal controls and the level of audit evidence required;

(b) the audit methods to be used, by the certification bodies, having regard to international standards on auditing, to deliver their opinions, including, where appropriate, the use of a single integrated sample for each population and, where appropriate, the possibility to accompany paying agencies' on-the-spot checks

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 10

Admissibility of payments made by the paying agencies

The expenditure referred to in Article 4(1) and in Article 5 may be covered by Union financing only if it has been effected by accredited paying agencies.

Article 11

Payment in full to beneficiaries

Except where otherwise explicitly provided for in Union law, payments relating to the financing provided for in this Regulation shall be disbursed in full to the beneficiaries.

TITLE III

FARM ADVISORY SYSTEM

Article 12

Principle and scope

1. Member States shall establish a system for advising beneficiaries on land management and farm management ('farm advisory system'). That farm advisory system shall be operated by designated public bodies and/or selected private bodies.

2. The farm advisory system shall cover at least the following:

(a) obligations at farm level resulting from the statutory management requirements and the standards for good agricultural and environmental condition of land as laid down in Chapter I of Title VI;

(b) the agricultural practices beneficial for the climate and the environment as laid down in Chapter 3 of Title III of Regulation (EU) No 1307/2013 and the maintenance of the agricultural area as referred to in point (c) of Article 4(1) of Regulation (EU) No 1307/2013;

(c) measures at farm level provided for in rural development programmes for farm modernisation, competitiveness building, sectoral integration, innovation and market orientation, as well as for the promotion of entrepreneurship;

(d) requirements, at the level of beneficiaries as defined by Member States for implementing Article 11(3) of Directive 2000/60/EC;

(e) requirements at the level of beneficiaries as defined by Member States for implementing Article 55 of Regulation (EC) No 1107/2009, in particular the requirement referred to in Article 14 of Directive 2009/128/EC.

3. The farm advisory system may also cover, in particular:

(a) the promotion of conversions of farms and the diversification of their economic activity;

(b) risk management and the introduction of appropriate preventive actions to address natural disasters, catastrophic events and animal and plant diseases;

(c) the minimum requirements established by national law, as referred to in Article 28(3) and 29(2) of Regulation (EU) No 1305/2013;

(d) the information related to climate change mitigation and adaptation, biodiversity and protection of water, as set out in Annex I to this Regulation.

Article 13

Specific requirements relating to the farm advisory system

1. Member States shall ensure that advisors working within the farm advisory system are suitably qualified and regularly trained.

2. Member States shall ensure the separation between advice and checks. In that respect, and without prejudice to national law concerning public access to documents, Member States shall ensure that the selected and designated bodies as referred to in Article 12(1) do not disclose any personal or individual information or data they obtain in the course of their advisory activity to persons other than the beneficiary who is managing the holding concerned, with the exception of any irregularity or infringement found in the course of their activity which is covered by an obligation laid down in Union or national law to inform a public authority, in particular in the case of criminal offences.

3. The national authority concerned shall provide, primarily by electronic means, the potential beneficiary with the appropriate list of selected and designated bodies as referred in Article 12(1).

Article 14

Access to the farm advisory system

Beneficiaries and farmers not receiving support under the CAP may use the farm advisory system on a voluntary basis.

Without prejudice to the fourth subparagraph of Article 99(2), Member States may, however, determine in accordance with objective criteria, the categories of beneficiaries that have priority access to the farm advisory system, including networks operating with limited resources within the meaning of Articles 53, 55 and 56 of Regulation (EU) No 1305/2013.

In such cases, Member States shall ensure that priority is given to those farmers with the most limited access to an advisory service other than the farm advisory system.

The farm advisory system shall ensure that beneficiaries have access to advice reflecting the specific situation of their holding.

Article 15

Commission powers

The Commission may adopt implementing acts laying down rules on the uniform implementation of the farm advisory system in order to render that system fully operational.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

TITLE IV

FINANCIAL MANAGEMENT OF THE FUNDS

CHAPTER I

EAGF

Section 1

Financing of expenditure

Article 16

Budget ceiling

1. The annual ceiling for EAGF expenditure shall be constituted by the maximum amounts set for it under Regulation (EU, Euratom) No 1311/2013.

2. In the event that Union law provides for sums to be deducted from or added to the amounts referred to in paragraph 1, the Commission shall adopt implementing acts without applying the procedure referred to in Article 116, setting the net balance available for EAGF expenditure on the basis of the data referred to in Union law.

Article 17

Monthly payments

1. The appropriations necessary to finance the expenditure referred to in Article 4(1) shall be made available to Member States by the Commission in the form of monthly payments, on the basis of the expenditure effected by the accredited paying agencies during a reference period.

2. Until transfer of the monthly payments by the Commission, the resources required to undertake expenditure shall be mobilised by the Member States according to the needs of their accredited paying agencies.

Article 18

Procedure for monthly payments

1. Without prejudice to the application of Articles 51 and 52, monthly payments shall be made by the Commission for expenditure effected by accredited paying agencies during the reference month.

2. Monthly payments shall be made to each Member State at the latest on the third working day of the second month following that in which the expenditure is effected. Expenditure effected by Member States between 1 and 15 October shall count as having been made in the month of October. Expenditure effected between 16 and 31 October shall count as having been made in the month of November.

3. The Commission shall adopt implementing acts determining the monthly payments which it makes on the basis of a declaration of expenditure from the Member States and the information supplied in accordance with Article 102(1), taking account of reductions or suspensions applied under Article 41 or any other corrections. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

4. The Commission may adopt, implementing acts without applying the procedure referred to in Article 116, determining supplementary payments or deductions. In such cases, the committee referred to in Article 116(1) shall be informed at its next meeting.

Article 19

Administrative and personnel costs

Expenditure relating to administrative and personnel costs effected by Member States and by beneficiaries of aid from the EAGF shall not be borne by the Fund.

Article 20

Public intervention expenditure

1. Where, within the framework of the common organisation of the markets, a sum per unit is not determined in respect of a public intervention, the EAGF shall finance the measure concerned on the basis of standard amounts uniform throughout the Union, in particular as regards funds originating in the Member States used for buying-in products, for material operations arising from storage and, where appropriate, for the processing of intervention products.

2. In order to ensure the funding by the EAGF of the public intervention expenditure the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning:

(a) the type of measures eligible for Union financing and the reimbursement conditions;

(b) the eligibility conditions and calculation methods based on the information actually observed by the paying agencies or based on flat-rates determined by the Commission, or based on flat-rate or non-flat-rate amounts provided for by the sectoral agricultural legislation.

3. In order to ensure the proper management of the appropriations entered in the Union's budget for the EAGF, the Commission shall be empowered to adopt delegated acts in accordance with Article 115, laying down rules on the valuation of operations in connection with public intervention, the measures to be taken in the case of loss or deterioration of products under the public intervention, and on the determination of the amounts to be financed.

4. The Commission shall adopt implementing acts, fixing the amounts referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

Article 21

Acquisition of satellite images

The list of the satellite images required for checks shall be agreed by the Commission and the Member States in accordance with the specification prepared by each Member State.

The Commission shall supply those satellite images free of charge to the control bodies or to suppliers of services authorised by those bodies to represent them.

The Commission shall remain the owner of the satellite images and shall recover them on completion of the work. It may also provide that work be carried out on enhancing techniques and working methods in connection with the inspection of agricultural areas by remote sensing.

Article 22

Monitoring of agricultural resources

The measures financed pursuant to point (c) of Article 6 shall aim to give the Commission the means to:

- (a) manage Union agricultural markets in a global context;
- (b) ensure agri-economic and agri-environmental monitoring of agricultural land, including agro-forestry, and monitoring of the condition of crops so as to enable estimates to be made, in particular as regards yields and agricultural production;
- (c) share the access to such estimates in an international context, such as those initiatives coordinated by United Nations organisations or other international agencies;
- (d) contribute to transparency of world markets; and
- (e) ensure technological follow-up of the agri-meteorological system.

The measures financed pursuant to point (c) of Article 6 concern the collection or purchase of data needed to implement and monitor the CAP, including satellite data and meteorological data, the creation of a spatial data infrastructure and a website, the carrying out of specific studies on climatic conditions, remote sensing used to assist in the monitoring of soil health and the updating of agri-meteorological and economic models. Where necessary, those measures shall be carried out in collaboration with national laboratories and bodies.

Article 23

Implementing powers

The Commission may adopt implementing acts, laying down:

- (a) rules relating to the financing pursuant to points (b) and (c) of Article 6,
- (b) the procedure under which the measures referred to in Articles 21 and 22 shall be carried out in order to meet the objectives assigned,
- (c) the framework governing the acquisition, enhancing and utilisation of satellite images and meteorological data, and the applicable deadlines.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Section 2

Budget discipline

Article 24

Compliance with the ceiling

1. Throughout the budget procedure and the implementation of the budget, appropriations relating to EAGF expenditure shall not exceed the amount referred to in Article 16.

All legislative instruments proposed by the Commission and adopted by the European Parliament and the Council, the Council or the Commission and that have an influence on the EAGF budget shall comply with the amount referred to in Article 16.

2. Where Union law provides for a financial ceiling in euro for agricultural expenditure in respect of a Member State, such expenditure shall be reimbursed subject to that limit set in euro, and, where Article 41 applies, with any necessary adjustments.

3. National ceilings for direct payments referred to in Article 7 of Regulation (EU) No 1307/2013, corrected by the adjustments laid down in Article 26 of this Regulation, shall be deemed to be financial ceilings in euro.

*Article 25***Reserve for crises in the agricultural sector**

A reserve intended to provide additional support for the agricultural sector in the case of major crises affecting the agricultural production or distribution ("the reserve for crises in the agricultural sector") shall be established by applying, at the beginning of each year, a reduction to direct payments with the financial discipline mechanism referred to in Article 26.

The total amount of the reserve shall be EUR 2 800 million with equal annual instalments of EUR 400 million (at 2011 prices) for the period 2014-2020 and shall be included under Heading 2 of the Multiannual Financial Framework as set out in the Annex to Regulation (EU, Euratom) No 1311/2013.

*Article 26***Financial discipline**

1. In order to ensure that the annual ceilings set out in Regulation (EU, Euratom) No 1311/2013 for the financing of the market related expenditure and direct payments are respected, an adjustment rate for direct payments ("the adjustment rate") shall be determined when the forecasts for the financing of the measures financed under that sub-ceiling for a given financial year indicate that the applicable annual ceilings will be exceeded.

2. The Commission shall present a proposal to the European Parliament and to the Council concerning the adjustment rate no later than 31 March of the calendar year in respect of which that adjustment rate applies.

3. If in any year the adjustment rate has not been set by the European Parliament and the Council by 30 June, the Commission shall adopt implementing acts fixing the adjustment rate and shall inform the European Parliament and the Council immediately thereof. Such implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

4. Until 1 December, the Commission may, on the basis of new information in its possession, adopt implementing acts adapting the adjustment rate set in accordance with paragraphs 2 or 3. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

5. By way of derogation from the fourth subparagraph of Article 169(3) of Regulation (EU, Euratom) No 966/2012, Member States shall reimburse the appropriations carried over in accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 to the final recipients who are subject, in the financial year to which the appropriations are carried over, to the adjustment rate.

The reimbursement referred to in the first subparagraph shall only apply to final beneficiaries in those Member States where financial discipline applied in the preceding financial year.

6. The Commission may adopt implementing acts, laying down the terms and conditions applicable to appropriations carried over in accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 in order to finance the expenditure

referred to in Article 4(1)(b) of this Regulation. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

7. When applying this Article, the amount of the reserve for crises in the agricultural sector referred to in Article 25 shall be included in the determination of the adjustment rate. Any amount not made available for crisis measures by the end of the financial year shall be disbursed in accordance with paragraph 5 of this Article.

*Article 27***Budget discipline procedure**

1. The Commission shall present to the European Parliament and to the Council, at the same time as the draft budget for financial year N, its forecasts for financial years N - 1, N and N + 1.

2. If, on drawing up the draft budget for financial year N, there appears to be a risk that the amount referred to in Article 16 for financial year N will be exceeded, the Commission shall propose to the European Parliament and to the Council or to the Council, the measures necessary to ensure compliance with that amount.

3. At any time, if the Commission considers that there is a risk that the amount referred to in Article 16 will be exceeded and that it cannot take adequate measures to remedy the situation under its powers, it shall propose other measures to ensure compliance with that amount. Those measures are adopted by the Council where the legal basis of the relevant measure is Article 43(3) TFEU or by the European Parliament and the Council where the legal basis of the relevant measure is Article 43(2) TFEU.

4. If, at the end of financial year N, reimbursement requests from the Member States exceed or are likely to exceed the amount referred to in Article 16, the Commission shall:

(a) consider the requests presented by Member States pro rata and within the limit of the available budget, and shall, adopt implementing acts, setting provisionally the amount of the payments for the month concerned;

(b) determine, for all Member States, at the latest by 28 February of financial year N + 1, their situation with regard to Union financing for the financial year N;

(c) adopt implementing acts setting the total amount of Union financing broken down by Member State, on the basis of a single rate of Union financing, within the limit of the budget which was available for the monthly payments;

(d) effect, at the latest when the monthly payments are made for March of year N+1, any compensation to be carried out with respect to Member States.

The implementing acts provided for in points (a) and (c) of the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

Article 28

Early-warning and monitoring system

In order to ensure that the budget ceiling referred to in Article 16 is not exceeded, the Commission shall implement a monthly early-warning and monitoring system in respect of EAGF expenditure.

To that end, at the beginning of each financial year, the Commission shall determine monthly expenditure profiles based, where appropriate, on average monthly expenditure during the previous three years.

The Commission shall periodically present to the European Parliament and to the Council a report examining the development of expenditure effected in relation to the profiles and containing an assessment of the forecasted implementation for the current financial year.

Article 29

Reference exchange rates

1. When adopting the draft budget, or a letter of amendment to the draft budget which concerns agricultural expenditure, the Commission shall use for EAGF budget estimates the average euro/US dollar exchange rate recorded on the market during the latest quarter ending at least 20 days before adoption of the budget document by the Commission.

2. When adopting a draft amending and supplementary budget or a letter of amendment thereto, the Commission shall, in so far as those documents concern appropriations relating to the measures referred to in point (a) of Article 4(1), use:

- (a) the average euro/US dollar exchange rate actually recorded on the market from 1 August of the previous financial year until the end of the latest quarter ending at least 20 days before adoption of the budget document by the Commission and at the latest on 31 July of the current financial year, and
- (b) the average exchange rate actually recorded during the latest quarter ending at least 20 days before adoption of the budget document by the Commission, as a forecast for the remainder of the financial year.

CHAPTER II

EAFRD

Section 1

General provisions for eafrd

Article 30

No double funding

Expenditure financed under the EAFRD shall not be the subject of any other financing under the Union's budget.

Article 31

Provisions applying to all payments

1. In accordance with Article 77(1) of Regulation (EU) No 1303/2013 payments by the Commission of the EAFRD contribution as referred to in Article 5 of this Regulation shall not exceed the budget commitments.

Those payments shall be assigned to the earliest open budget commitment

2. Article 84 of Regulation (EU, Euratom) No 966/2012 shall apply.

Section 2

Financing of rural development programmes

Article 32

Financial contribution from the EAFRD

The financial contribution from the EAFRD towards expenditure under rural development programmes shall be determined for each programme, within the ceilings established by Union law concerning support for rural development by the EAFRD.

Article 33

Budget commitments

As regards the Union's budget commitments for rural development programmes, Article 76 of Regulation (EU) No 1303/2013 shall apply.

Section 3

Financial contribution to rural development programmes

Article 34

Provisions applying to payments for rural development programmes

1. The appropriations necessary to finance the expenditure referred to in Article 5 shall be made available to Member States in the form of prefinancing, interim payments and the payment of a balance, as described in this Section.

2. The combined total of prefinancing and interim payments shall not exceed 95 % of the EAFRD's contribution to each rural development programme.

When the ceiling of 95 % is reached, the Member States shall continue transmitting requests for payments to the Commission.

Article 35

Prefinancing arrangements

1. Following its decision to approve the rural development programme, the Commission shall pay an initial prefinancing amount to the Member State for the whole programming period. This initial pre-financing amount shall be paid in instalments as follows:

- (a) in 2014: 1 % of the amount of support from the EAFRD for the entire programming period to the programme and 1,5 % of the amount of support from the EAFRD for the entire programming period to the programme, where a Member State has been receiving financial assistance since 2010, either in accordance with Articles 122 and 143 TFEU, or from the European Financial Stability Facility (EFSF), or is receiving financial assistance on 31 December 2013 in accordance with Articles 136 and 143 TFEU;
- (b) in 2015: 1 % of the amount of support from the EAFRD for the entire programming period to the programme and 1,5 % of the amount of support from the EAFRD for the entire programming period to the programme where a Member State has been receiving financial assistance since 2010, either in accordance with Articles 122 and 143 TFEU, or from the EFSF, or is receiving financial assistance on 31 December 2014 in accordance with Articles 136 and 143 TFEU;
- (c) in 2016: 1 % of the amount of support from the EAFRD for the entire programming period to the programme.

If a rural development programme is adopted in 2015 or later, the earlier instalments shall be paid in the year of such adoption.

2. The total amount paid as prefinancing shall be reimbursed to the Commission if no expenditure is effected and no declaration of expenditure for the rural development programme is sent within 24 months of the date on which the Commission pays the first instalment of the prefinancing amount.
3. Interest generated on the prefinancing shall be posted to the rural development programme concerned and deducted from the amount of public expenditure indicated on the final declaration of expenditure.
4. The total prefinancing amount shall be cleared in accordance with the procedure referred to in Article 51 of this Regulation before the rural development programme is closed.

Article 36

Interim payments

1. Interim payments shall be made for each rural development programme. They shall be calculated by applying the co-financing rate for each measure to the public expenditure effected pertaining to it as referred to in Article 59 of Regulation (EU) No 1305/2013.
2. Subject to the availability of resources, the Commission shall, taking account of reductions or suspensions applied under

Article 41, make interim payments in order to reimburse the expenditure effected by accredited paying agencies in implementing the programmes.

3. Each interim payment shall be made by the Commission, subject to compliance with the following requirements:
- (a) transmission to the Commission of a declaration of expenditure signed by the accredited paying agency, in accordance with Article 102(1)(c);
- (b) no overrun of the total EAFRD contribution to each measure for the entire period covered by the programme concerned;
- (c) transmission to the Commission of the last annual progress report on the implementation of the rural development programme.

4. If one of the requirements laid down in paragraph 3 is not met, the Commission shall forthwith inform the accredited paying agency or the coordinating body, where one has been appointed. If one of the requirements laid down in point (a) or in point (c) of paragraph 3 is not respected, the declaration of expenditure shall be inadmissible.

5. Without prejudice to the application of Articles 51 and 52, the Commission shall make interim payments within 45 days of registering a declaration of expenditure which meets the requirements set out in paragraph 3 of this Article.

6. Accredited paying agencies shall establish and forward to the Commission, either directly or via the intermediary of the coordinating body, where one has been appointed, intermediate declarations of expenditure relating to rural development programmes, within periods to be set by the Commission.

The Commission shall adopt implementing acts laying down the periods for accredited paying agencies to forward those intermediate declarations of expenditure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Declarations of expenditure shall cover expenditure that the paying agencies have effected during each of the periods concerned. However, in cases in which expenditure referred to in Article 65(9) of Regulation (EU) No 1303/2013 cannot be declared to the Commission in the period concerned due to pending approval by the Commission of an amendment to the programme, it may be declared in subsequent periods.

Intermediate declarations of expenditure in respect of expenditure effected from 16 October onwards shall be booked to the following year's budget.

7. Article 83 of Regulation (EU) No 1303/2013 shall apply.

Article 37

Payment of the balance and closure of the programme

1. After receiving the last annual progress report on the implementation of a rural development programme, the Commission shall pay the balance, subject to the availability of resources, on the basis of the financial plan in force, the annual accounts for the last execution year for the relevant rural development programme and of the corresponding clearance decision. Those accounts shall be presented to the Commission no later than six months after the final eligibility date of expenditure as referred to in Article 65(2) of Regulation (EU) No 1303/2013 and shall cover the expenditure effected by the paying agency up to the last eligibility date of expenditure.

2. The balance shall be paid no later than six months after the information and documents referred to in paragraph 1 of this Article are considered to be receivable by the Commission and the last annual account has been cleared. Without prejudice to Article 38(5) the amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months.

3. If, by the time limit set out in paragraph 1, the Commission has not been sent the last annual progress report and the documents needed for clearance of the accounts of the last execution year for the programme the balance shall be automatically decommitted in accordance with Article 38.

Article 38

Automatic decommitment for rural development programmes

1. The Commission shall automatically decommit any portion of a budget commitment for a rural development programme that has not been used for the purpose of pre-financing or for making interim payments or for which no declaration of expenditure fulfilling the requirements laid down in Article 36(3) has been presented to it in relation to expenditure effected by 31 December of the third year following that of the budget commitment.

2. The part of budget commitments that is still open on the last eligibility date for expenditure as referred to in Article 65(2) of Regulation (EU) No 1303/2013 for which no declaration of expenditure has been made within six months of that date shall be automatically decommitted.

3. In the event of legal proceedings or of an administrative appeal having suspensory effect, the period for automatic decommitment referred to in paragraph 1 or paragraph 2 shall, in respect of the amount relating to the operations concerned, be interrupted for the duration of those proceedings or that administrative appeal, provided that the Commission receives a substantiated notification from the Member State by 31 December of year N + 3.

4. The following shall be disregarded in calculating the automatic decommitment:

(a) that part of the budget commitments for which a declaration of expenditure has been made but for which

reimbursement has been reduced or suspended by the Commission at 31 December of year N + 3;

(b) that part of the budget commitments which a paying agency has been unable to disburse for reasons of force majeure seriously affecting the implementation of the rural development programme. National authorities claiming force majeure shall demonstrate the direct consequences on the implementation of all or part of the programme.

By 31 January, the Member State shall send to the Commission information on the exceptions referred to in the first subparagraph concerning the amounts declared by the end of the preceding year.

5. The Commission shall inform Member States in good time if there is a risk of automatic decommitment. It shall inform them of the amount involved as indicated by the information in its possession. The Member States shall have two months from receiving this information to agree to the amount in question or present observations. The Commission shall carry out the automatic decommitment not later than nine months after the last time-limit resulting from the application of paragraphs 1 to 3.

6. In the event of automatic decommitment, the EAFRD contribution to the rural development programme concerned shall be reduced, for the year in question, by the amount automatically decommitted. The Member State shall produce a revised financing plan splitting the reduction of the aid between the measures for approval by the Commission. If it does not do so, the Commission shall reduce the amounts allocated to each measure pro rata.

CHAPTER III

Common Provisions

Article 39

Agricultural financial year

Without prejudice to special provisions on declarations of expenditure and revenue relating to public intervention laid down by the Commission pursuant to point (a) of Article 46(6), the agricultural financial year shall cover expenditure paid and revenue received and entered in the accounts of the Funds' budget by the paying agencies in respect of financial year "N" beginning on 16 October of year "N-1" and ending on 15 October of year "N".

Article 40

Compliance with payment deadlines

Where payment deadlines are laid down by Union law, any payment made by the paying agencies to the beneficiaries before the earliest possible date of payment and after the latest possible date of payment shall make the payments ineligible for Union financing, except in the cases, conditions and limits to be determined taking into account the principle of proportionality.

In order to make expenditure effected before the earliest possible date of payment or after the latest possible date of payment eligible for Union financing, while limiting the financial impact of doing so, the Commission shall be empowered to adopt delegated acts in accordance with Article 115, derogating from the rule contained in the first paragraph.

Article 41

Reduction and suspension of monthly and interim payments

1. Where the declarations of expenditure or the information referred to in Article 102 enable the Commission to establish that expenditure has been effected by bodies which are not accredited paying agencies, that payment periods or financial ceilings set by Union law have not been respected or that expenditure has otherwise not been effected in accordance with Union rules, the Commission may reduce or suspend the monthly or interim payments to the Member State concerned in the framework of the implementing acts concerning the monthly payments referred to in Article 18(3) or in the framework of the interim payments referred to in Article 36, after giving the Member State an opportunity to submit its comments.

Where the declarations of expenditure or the information referred to in Article 102 do not enable the Commission to establish that the expenditure has been effected in accordance with Union rules, the Commission shall ask the Member State concerned to supply further information and to submit comments within a period which shall not be less than 30 days. If the Member State fails to respond to the Commission request within the period set or if the response is considered unsatisfactory or demonstrates that the expenditure has not been effected in accordance with Union rules, the Commission may reduce or suspend the monthly or interim payments to the Member State concerned in the framework of the implementing acts concerning the monthly payments referred to in Article 18(3) or in the framework of the interim payments referred to in Article 36.

2. The Commission may adopt implementing acts, reducing or suspending the monthly or interim payments to a Member State if one or more of the key components of the national control system in question do not exist or are not effective due to the gravity or persistence of the deficiencies found, or if there are similar serious deficiencies in the system for the recovery of irregular payments and if one of the following conditions is met:

- (a) the deficiencies referred to in the first subparagraph are of a continuous nature and have been the reason for at least two implementing acts pursuant to Article 52, excluding from Union financing expenditure from the Member State concerned; or
- (b) the Commission concludes that the Member State concerned is not in a position to implement in the immediate future the necessary remedial measures in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission.

The reduction or suspension shall be applied to the relevant expenditure effected by the paying agency where the deficiencies exist for a period to be determined in the implementing acts referred to in this paragraph, which shall not exceed twelve months. If the conditions for the reduction or suspension continue to be met, the Commission may adopt implementing acts prolonging that period for further periods not exceeding twelve months in total. The reduction and suspension shall not be continued if those conditions are no longer met.

The implementing acts provided for in this paragraph shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

Before adopting the implementing acts referred to in this paragraph, the Commission shall inform the Member State concerned of its intention and shall ask it to react within a period which shall not be less than 30 days.

The implementing acts determining the monthly payments referred to in Article 18(3) or the interim payments referred to in Article 36 shall take account of the implementing acts adopted under this paragraph.

3. Reductions and suspensions under this Article shall be applied in accordance with the principle of proportionality and shall be without prejudice to the application of Articles 51 and 52.

4. Reductions and suspensions under this Article shall be without prejudice to Articles 19, 22 and 23 of Regulation (EU) No 1303/2013.

The suspensions referred to in Articles 19 and 22 of Regulation (EU) No 1303/2013 shall be in accordance with the procedure laid down in paragraph 2 of this Article.

Article 42

Suspension of payments in the case of late submission

Where sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the number of checks carried out under Article 59 and their outcomes and where the Member States overrun that period, the Commission may suspend the monthly payments referred to in Article 18 or the interim payments referred to in Article 36 provided that the Commission has made available to the Member States in good time prior to the start of the reference period all the information, forms and explanations they need to compile the relevant statistics. The amount to be suspended shall not exceed 1,5 % of the expenditure for which the relevant statistical information has not been sent in time. In applying the suspension, the Commission shall act in accordance with the principle of proportionality, taking account of the extent of the delay. In particular, account shall be taken of whether the late submission of information places

the annual budget discharge mechanism at risk. Before suspending the monthly payments the Commission shall notify the Member State concerned in writing. The Commission shall reimburse the suspended amounts when it receives the statistical information from the Member States concerned, provided that the date of receipt is not later than 31 January of the following year.

Article 43

Assignment of revenue

1. The following shall be "assigned revenue" within the meaning of Article 21 of Regulation (EU, Euratom) No 966/2012

- (a) sums which, under Articles 40 and Article 51 as regards expenditure under EAGF, and under Articles 52 and 54, must be paid to the Union's budget, including interest thereon;
- (b) sums which are collected or recovered under Section III of Chapter III of Title I of Part II of Regulation (EC) No 1234/2007;
- (c) sums which have been collected as a consequence of penalties in accordance with the specific rules laid down in Union sectoral agricultural legislation, save if that legislation explicitly provides that those amounts may be retained by the Member States;
- (d) amounts corresponding to penalties applied in accordance with the rules on cross-compliance laid down in Chapter II of Title VI, as regards expenditure under EAGF;
- (e) any security, deposit or guarantee furnished pursuant to Union law adopted within the framework of the CAP, excluding rural development, and subsequently forfeited. However, forfeited securities lodged when issuing export or import licences or under a tendering procedure for the sole purpose of ensuring that tenderers submit genuine tenders shall be retained by the Member States.

2. The sums referred to in paragraph 1 shall be paid to the Union's budget and, in the event of reuse, shall be used exclusively to finance EAGF or EAFRD expenditure.

3. This Regulation shall apply *mutatis mutandis* to assigned revenue referred to in paragraph 1.

4. As regards the EAGF, Articles 170 and 171 of Regulation (EU, Euratom) No 966/2012 shall apply *mutatis mutandis* to the keeping of accounts on assigned revenue referred to in this Regulation.

Article 44

Keeping of separate accounts

Each paying agency shall keep a set of separate accounts for the appropriations entered in the Union's budget for the Funds.

Article 45

Information measures

1. The provision of information financed pursuant to point (e) of Article 6 shall aim, in particular, to help explain, implement and develop the CAP and to raise public awareness of its content and objectives to reinstate consumer confidence following crises through information campaigns, to inform farmers and other parties active in rural areas and to promote the European model of agriculture, as well as to help citizens understand it.

It shall supply coherent, objective and comprehensive information, both inside and outside the Union, in order to give an accurate overall picture of the CAP.

2. The measures referred to in paragraph 1 may consist of:

- (a) annual work programmes or other specific measures presented by third parties;
- (b) activities implemented on the initiative of the Commission.

Those measures which are required by law or those measures already receiving financing under another Union action shall be excluded.

In order to implement activities as referred to in point (b) the Commission may be assisted by external experts.

The measures referred to in the first subparagraph shall also contribute to the corporate communication of the Union's political priorities in so far as those priorities are related to the general objectives of this Regulation.

3. By 31 October of each year, the Commission shall publish a call of proposal respecting the conditions set out in Regulation (EU, Euratom) No 966/2012.

4. The Committee referred to in Article 116(1) shall be notified of measures envisaged and taken pursuant to this Article.

5. The Commission shall present a report on the implementation of this Article to the European Parliament and the Council every two years.

Article 46

Commission powers

1. In order to take account of revenue collected by paying agencies for the Union's budget when making payments on the basis of the expenditure declarations submitted by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning the conditions under which certain types of expenditure and revenue under the Funds are to be compensated.

2. In order to enable the equitable distribution of the appropriations available between the Member States, if the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article 170(3) of Regulation (EU, Euratom) No 966/2012, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 of this Regulation concerning the method applicable to the commitments and the payment of the amounts.

3. In order to verify the consistency of the data notified by the Member States in relation to the expenditure or other information provided for in this Regulation, the Commission shall be empowered, in the case of non-compliance with the obligation to notify the Commission pursuant to Article 102, to adopt delegated acts in accordance with Article 115 on the deferral of monthly payments to Member States referred to in Article 42 with regard to expenditure under the EAGF and laying down the conditions under which it will reduce or suspend interim payments to Member States under the EAFRD referred to in that Article.

4. When applying Article 42 in order to ensure that principle of proportionality is respected, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 pertaining to rules on:

- (a) the list of measures which fall under Article 42;
- (b) the rate of suspension of payments referred to in that Article.

5. The Commission may adopt implementing acts laying down further rules on the obligation laid down in Article 44 as well as the specific conditions applying to the information to be booked in the accounts kept by the paying agencies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

6. The Commission may adopt implementing acts laying down rules on:

- (a) the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the Funds;
- (b) the terms and conditions governing the implementation of the automatic decommitment procedure;
- (c) the procedure and other practical arrangements for the proper functioning of the mechanism provided for in Article 42.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

CHAPTER IV

Clearance of accounts

Section I

General provisions

Article 47

On-the-spot checks by the Commission

1. Without prejudice to the checks carried out by Member States under national law, regulations and administrative provisions or Article 287 TFEU or to any check organised under Article 322 TFEU or based on Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾, the Commission may organise on-the-spot checks in Member States with a view to verifying in particular:

- (a) compliance of administrative practices with Union rules;
- (b) the existence of the requisite supporting documents and their correlation with the operations financed by the EAGF or the EAFRD;
- (c) the terms on which the operations financed by the EAGF or the EAFRD were undertaken and checked.
- (d) whether a paying agency complies with the accreditation criteria laid down in Article 7(2) and whether the Member State correctly applies the provisions of Article 7(5).

Persons authorised by the Commission to carry out on-the-spot checks on its behalf, or Commission agents acting within the scope of the powers conferred on them, shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EAGF or the EAFRD.

The powers to carry out on-the-spot checks shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national law. Without prejudice to the specific provisions of Regulation (EU, Euratom) No 883/2013 ⁽²⁾ of the European Parliament and of the Council and Regulation (Euratom, EC) No 2185/96, persons authorised by the Commission to act on its behalf shall not take part, inter alia, in home visits or the formal questioning of persons on the basis of law of the Member State concerned. However, they shall have access to information thus obtained.

⁽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, 5.11.1996, 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. The Commission shall give sufficient prior notice of an on-the-spot check to the Member State concerned or to the Member State within whose territory the check is to take place, taking into account the administrative impact on paying agencies when organising checks. Agents from the Member State concerned may take part in such checks.

At the request of the Commission and with the agreement of the Member State, additional checks or inquiries into the operations covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons authorised by the Commission to act on its behalf may take part in such checks.

In order to improve checks, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain checks or inquiries.

Article 48

Access to information

1. Member States shall make available to the Commission all information necessary for the smooth operation of the Funds and shall take all appropriate measures to facilitate the checks which the Commission deems appropriate in connection with the management of Union financing, including on-the-spot checks.

2. Member States shall communicate to the Commission at its request the laws, regulations and administrative provisions which they have adopted in order to implement the Union legal acts relating to the CAP, where those acts have a financial impact on the EAGF or the EAFRD.

3. Member States shall make available to the Commission information about irregularities and suspected fraud cases detected, as well as information about the steps taken pursuant to Section III of this Chapter to recover undue payments in connection with those irregularities and frauds.

Article 49

Access to documents

The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by Union law, and shall make the documents and information available to the Commission. Those supporting documents may be kept in electronic form under the conditions laid down by the Commission on the basis of Article 50(2).

Where those documents are kept by an authority acting under delegation from a paying agency and responsible for authorising expenditure, that authority shall send reports to the accredited paying agency on the number of checks made, their content and the measures taken in the light of their results.

Article 50

Commission powers

1. In order to ensure the correct and efficient application of the provisions relating to on-the-spot checks and access to documents and information set out in this Chapter, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 supplementing specific obligations to be complied with by the Member States under this Chapter.

2. The Commission may adopt implementing acts laying down rules on:

- (a) the procedures relating to the specific obligations which the Member States have to comply with in relation to the checks provided for in this Chapter;
- (b) the procedures relating to the cooperation obligations to be complied with by the Member States for the implementation of Articles 47 and 48;
- (c) the procedures and other practical arrangements relating to the reporting obligation referred to in Article 48(3);
- (d) the conditions under which the supporting documents referred to in Article 49 are to be kept, including their form and the time period of their storage.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Section II

Clearance

Article 51

Clearance of accounts

Prior to 31 May of the year following the budget year in question and on the basis of the information transmitted in accordance with point (c) of Article 102(1), the Commission shall adopt implementing acts, containing its decision on the clearance of the accounts of the accredited paying agencies. Those implementing acts shall cover the completeness, accuracy and veracity of the annual accounts submitted and shall be without prejudice to the content of decisions subsequently adopted pursuant to Article 52.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

Article 52

Conformity clearance

1. Where it finds that expenditure falling within the scope of Article 4(1) and Article 5 has not been effected in conformity with Union law and, in respect of the EAFRD, has not been effected in conformity with the applicable Union and national law referred to in Article 85 of Regulation (EU) No 1303/2013, the Commission shall adopt implementing acts determining the amounts to be excluded from Union financing. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

2. The Commission shall assess the amounts to be excluded on the basis of the gravity of the non-conformity recorded. It shall take due account of the nature of the infringement and of the financial damage caused to the Union. It shall base the exclusion on the identification of amounts unduly spent and, where these cannot be identified with proportionate effort, may apply extrapolated or flat-rate corrections. Flat-rate corrections shall only be applied where, due to the nature of the case or because the Member State has not provided the Commission with the necessary information, it is not possible with proportionate effort to identify more precisely the financial damage caused to the Union.

3. Before the adoption of any decision to refuse financing, the findings from the Commission's inspection and the Member State's replies shall be notified in writing, following which the two parties shall attempt to reach agreement on the action to be taken. At that point in the procedure the Member States shall be given the opportunity to demonstrate that the actual extent of the non-compliance is less than in the Commission's assessment.

If agreement is not reached, the Member State may request the opening of a procedure aimed at reconciling, within a period of four months, each party's position. A report of the outcome of the procedure shall be submitted to the Commission. The Commission shall take into account the recommendations in the report before deciding on any refusal of financing and shall give reasons if it decides not to follow those recommendations.

4. Financing may not be refused for:

- (a) expenditure as indicated in Article 4(1) which is effected more than 24 months before the Commission notifies the Member State in writing of its inspection findings;
- (b) expenditure on multiannual measures falling within the scope of Article 4(1) or within the scope of the programmes as indicated in Article 5, where the final obligation on the recipient occurs more than 24 months before the Commission notifies the Member State in writing of its inspection findings;
- (c) expenditure on measures in programmes, as indicated in Article 5, other than those referred to in point (b) of this paragraph, for which the payment or, as the case may be, the final payment, by the paying agency, is made more than 24 months before the Commission notifies the Member State in writing of its inspection findings.

5. Paragraph 4 shall not apply in the case of:

- (a) irregularities covered by Section III of this Chapter;

- (b) national aids for which the Commission has initiated the procedure laid down in Article 108(2) TFEU or infringements which the Commission has notified to the Member State concerned by a letter of formal notice in accordance with Article 258 TFEU;

- (c) infringements by Member States of their obligations under Chapter III of Title V of this Regulation, provided that the Commission notifies the Member State in writing of its inspection findings within 12 months following receipt of the Member State's report on the results of its checks on the expenditure concerned.

Article 53

Commission powers

1. The Commission shall adopt implementing acts laying down rules on:

- (a) the clearance of accounts provided for in Article 51 with regard to the measures to be taken in connection with the adoption of the decision and its implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected;
- (b) the conformity clearance provided for in Article 52 with regard to the measures to be taken in connection with the adoption of the decision and its implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected as well as the conciliation procedure provided for in that Article, including the establishment, tasks, composition and working arrangements of the conciliation body.

2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

3. In order to enable the Commission to protect the financial interest of the Union and to ensure the provisions relating to the conformity clearance provided for in Article 52 are applied efficiently, the Commission shall be empowered to adopt delegated acts in accordance with Article 115, concerning the criteria and methodology for applying corrections.

Section III

Irregularities

Article 54

Common Provisions

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary within 18 months after the approval and, where applicable, reception, by the paying agency or body responsible for the recovery, of a control report or similar document, stating that an irregularity has taken place. The corresponding amounts shall be recorded at the time of the recovery request in the debtors' ledger of the paying agency.

2. If recovery has not taken place within four years from the date of the recovery request, or within eight years where recovery is taken in the national courts, 50 % of the financial consequences of the non-recovery shall be borne by the Member State concerned and 50 % by the Union's budget, without prejudice to the requirement that the Member State concerned must pursue recovery procedures in compliance with Article 58.

Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a final nature, the Member State concerned shall declare as expenditure to the Funds the financial burden borne by it under the first subparagraph.

However, if for reasons not attributable to the Member State concerned, it is not possible for recovery to take place within the time limit specified in the first subparagraph, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time-limit by a period of up to half of the original period.

3. On duly justified grounds, Member States may decide not to pursue recovery. A decision to this effect may be taken only in the following cases:

- (a) where the costs already and likely to be effected total more than the amount to be recovered, which condition shall be considered to have been met if:
 - (i) the amount to be recovered from the beneficiary in the context of an individual payment for an aid scheme or support measure, not including interest, does not exceed EUR 100; or
 - (ii) the amount to be recovered from the beneficiary in the context of an individual payment for an aid scheme or support measure, not including interest, falls between EUR 100 and EUR 150 and the Member State concerned applies a threshold equal to or higher than the amount to be recovered under its national law for not pursuing national debts.
- (b) where recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity.

Where the decision referred to in the first subparagraph of this paragraph is taken before the outstanding amount has been subject to the rules referred to in paragraph 2, the financial consequence of non-recovery shall be borne by the Union's budget.

4. Member States shall enter in the annual accounts to be sent to the Commission under point (c)(iv) of Article 102(1) the amounts to be borne by them under paragraph 2 of this Article.

The Commission shall check that this has been done and make any adjustments needed in the implementing act referred to in Article 51.

5. The Commission may, provided that the procedure laid down in Article 52(3) has been followed, adopt, implementing acts, excluding from Union financing sums charged to the Union's budget in the following cases:

- (a) if the Member State has not respected the time limits referred to in paragraph 1;
- (b) if it considers that the decision not to pursue recovery taken by a Member State pursuant to paragraph 3 is not justified;
- (c) if it considers that an irregularity or lack of recovery is the outcome of irregularity or negligence attributable to the administrative authorities or another official body of the Member State.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

Article 55

Provisions specific to the EAGF

Sums recovered following the occurrence of irregularity or negligence and the interest thereon shall be made over to the paying agency and booked by it as revenue assigned to the EAGF in the month in which the money is actually received.

When the Union's budget is credited as referred to in the first paragraph, the Member State may retain 20 % of the corresponding amounts as flat rate recovery costs, except in cases of irregularity or negligence attributable to its administrative authorities or other official bodies.

Article 56

Provisions specific to the EAFRD

Where irregularities or negligence are detected in rural development operations or programmes, Member States shall make financial adjustments by totally or partially cancelling the Union financing concerned. Member States shall take into consideration the nature and gravity of the irregularities detected and the level of the financial loss to the EAFRD.

Amounts of the Union financing under the EAFRD which are cancelled and amounts recovered, as well as the interest thereon, shall be reallocated to the programme concerned. However, the cancelled or recovered Union funds may be reused by Member States only for an operation under the same rural development programme and provided the funds are not reallocated to operations which have been the subject of a financial adjustment. After the closure of a rural development programme, the Member State shall refund the sums recovered to the Union's budget.

*Article 57***Commission powers**

1. In order to ensure correct and efficient application of the provisions relating to the conditions for the recovery of undue payments and interest thereon, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning specific obligations to be complied with by the Member States.

2. The Commission shall adopt implementing acts laying down rules on:

- (a) the procedures for the recovery of undue payments and interest as set out in this Section and for keeping the Commission apprised of pending recoveries;
- (b) the forms of notification and communication to be made by the Member States to the Commission in relation to the obligations set out in this Section.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

TITLE V

CONTROL SYSTEMS AND PENALTIES

CHAPTER I

General rules*Article 58***Protection of the financial interests of the Union**

1. Member States shall, within the framework of the CAP, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union, in particular to:

- (a) check the legality and regularity of operations financed by the Funds;
- (b) ensure effective prevention against fraud, especially in areas with a higher level of risk, and which will act as a deterrent, having regard to the costs and benefits as well as the proportionality of the measures;
- (c) prevent, detect and correct irregularities and fraud;
- (d) impose penalties which are effective, dissuasive and proportionate in accordance with Union law, or failing this, national law, and bring legal proceedings to that effect, as necessary;
- (e) recover undue payments plus interest, and bring legal proceedings to that effect as necessary.

2. Member States shall set up efficient management and control systems in order to ensure compliance with the legislation governing Union support schemes aimed at minimising the risk of financial damage to the Union.

3. Member States shall inform the Commission of the provisions adopted and measures taken under paragraphs 1 and 2.

Any conditions established by Member States to supplement the conditions laid down by Union rules for receiving support financed by the EAGF or the EAFRD shall be verifiable.

4. The Commission may adopt implementing acts, laying down rules necessary for the uniform application of this Article relating to the following:

- (a) the procedures, deadlines, exchange of information in relation to the obligations as set out in paragraphs 1 and 2;
- (b) the notification and communication to be made by the Member States to the Commission in relation to the obligation set out in paragraph 3.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

*Article 59***General principles of checks**

1. Except where otherwise provided, the system set up by the Member States in accordance with Article 58(2) shall include systematic administrative checking of all aid applications and payment claims. That system shall be supplemented by on-the-spot checks.

2. As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part in order to obtain a representative error rate and a risk-based part, which shall target the areas where the risk of errors is the highest.

3. The authority responsible shall draw up a report on each on-the-spot check.

4. Where appropriate, all on-the-spot checks provided for in Union rules regarding agricultural aid and rural development support shall be carried out at the same time.

5. Member States shall ensure a minimum level of on-the-spot checks needed for an effective management of the risks, and shall increase that minimum level where necessary. Member States may reduce that minimum level where the management and control systems function properly and the error rates remain at an acceptable level.

6. In cases to be provided for by the Commission on the basis of point (h) of Article 62(2), aid applications and payment claims or any other communications, claims or requests may be corrected and adjusted after their submission in cases of obvious errors recognised by the competent authority.

7. An aid application or payment claim shall be rejected if the beneficiary or his representative prevents an on-the-spot check from being carried out, except in cases of force majeure or in exceptional circumstances.

Article 60

Circumvention clause

Without prejudice to specific provisions, no advantage provided for under sectoral agricultural legislation shall be granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially, contrary to the objectives of that legislation.

Article 61

Compatibility of support schemes for the purposes of checks in the wine sector

For the purposes of applying the support schemes in the wine sector as referred to in Regulation (EU) No 1308/2013, Member States shall ensure that the administration and control procedures applied to those schemes are compatible with the integrated system referred to in Chapter II of this Title as regards the following elements:

- (a) the computerised database;
- (b) the identification systems for agricultural parcels;
- (c) the administrative checks.

The procedures shall allow a common functioning or the exchange of data with the integrated system.

Article 62

Commission powers as regards checks

1. In order to ensure that the checks are carried out correctly and efficiently and that the eligibility conditions are verified in an efficient, coherent and non-discriminatory manner which protects the financial interest of the Union, the Commission shall be empowered to adopt delegated acts in accordance with Article 115, laying down, where the proper management of the system so requires, additional requirements with respect to customs procedures, and in particular to those laid down in Regulation (EC) No 952/2013 of the European Parliament and of the Council ⁽¹⁾.

⁽¹⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

2. The Commission shall adopt implementing acts, laying down rules necessary for the uniform application of this Chapter, and in particular:

- (a) rules on administrative and on-the-spot checks to be conducted by the Member States with regard to the respect of obligations, commitments and eligibility criteria resulting from the application of Union law;
- (b) rules on the minimum level of on-the-spot checks and on the obligation to increase it or the possibility of reducing it as set out in Article 59(5);
- (c) the rules and methods applicable to the reporting of the checks and verifications carried out and their results;
- (d) the authorities responsible for performing the checks for compliance as well as to the content, the frequency and the marketing stage to which those checks are to apply;
- (e) with regard to hemp as referred to in Article 52 of Regulation (EU) No 1307/2013, rules on the specific control measures and methods for determining tetrahydrocannabinol levels;
- (f) with regard to cotton as referred to in Article 56 of Regulation (EU) No 1307/2013, a system for checks of the approved interbranch organisations;
- (g) with regard to wine as referred to in Regulation (EU) No 1308/2013, rules on the measurement of areas, on checks and on rules governing the specific financial procedures for the improvement of checks;
- (h) the cases in which aid applications and payments claims or any other communications, claims or requests may be corrected and adjusted after their submission, as referred to in Article 59(6);
- (i) the tests and methods to be applied in order to establish the eligibility of products for public intervention and private storage, as well as the use of tendering procedures, both for public intervention and for private storage.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 63

Undue payments and administrative penalties

1. Where it is found that a beneficiary does not comply with the eligibility criteria, commitments or other obligations relating to the conditions for the granting of the aid or support, as provided for in the sectoral agricultural legislation, the aid shall not be paid or shall be withdrawn in full or in part and, where relevant, the corresponding payment entitlements as referred to in Article 21 of Regulation (EU) No 1307/2013 shall not be allocated or shall be withdrawn.

2. Moreover, where sectoral agricultural legislation so provides, Member States shall also impose administrative penalties, in accordance with the rules laid down in Article 64 and Article 77. This shall be without prejudice to the provisions set out in Articles 91 to 101 of Title VI.

3. Without prejudice to Article 54(3), the amounts, including interest thereon, and payment entitlements, concerned by the withdrawal referred to in paragraph 1 and by the penalties referred to in paragraph 2 shall be recovered.

4. The Commission shall adopt delegated acts in accordance with Article 115 laying down the conditions for the partial or total withdrawal referred to in paragraph 1.

5. The Commission shall adopt implementing acts laying down detailed procedural and technical rules on:

- (a) the application and calculation of the partial or total withdrawal referred to in paragraph 1;
- (b) the recovery of undue payments and penalties as well as in respect of unduly allocated payment entitlements and the application of interest.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 64

Application of administrative penalties

1. As regards the administrative penalties referred to in Article 63(2), this Article shall apply in cases of non-compliance in relation to eligibility criteria, commitments or other obligations resulting from the application of sectoral agricultural legislation, with the exception of those referred to in Articles 67 to 78 of Chapter II of this Title and in Articles 91 to 101 of Title VI and of those subject to the penalties provided for in Article 89(3) and 89(4).

2. No administrative penalties shall be imposed:

- (a) where the non-compliance is due to force majeure;
- (b) where the non-compliance is due to obvious errors as referred to in Article 59(6);
- (c) where the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty;
- (d) where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault;

(e) where the non-compliance is of a minor nature, including where expressed in the form of a threshold, to be set by the Commission in accordance with point (b) of paragraph 7;

(f) other cases in which the imposition of a penalty is not appropriate, to be defined by the Commission in accordance with point (b) of paragraph 6.

3. Administrative penalties may be imposed on the beneficiary of the aid or support and on other natural or legal persons, including groups or associations of such beneficiaries or other persons, bound by the obligations laid down in the rules referred to in paragraph 1.

4. The administrative penalties may take one of the following forms:

- (a) a reduction in the amount of aid or support to be paid in relation to the aid application or payment claim affected by the non-compliance or further applications; however as regards rural development support, this shall be without prejudice to the possibility of suspending the support where it can be expected that the non-compliance can be addressed by the beneficiary within a reasonable time;
- (b) payment of an amount calculated on the basis of the quantity and/or the period concerned by the non-compliance;
- (c) suspension or withdrawal of an approval, recognition or authorisation;
- (d) exclusion from the right to participate in or benefit from the aid scheme or support measure or other measure concerned;

5. The administrative penalties shall be proportionate and graduated according to the severity, extent, duration and recurrence of the non-compliance found, and shall respect the following limits:

- (a) the amount of the administrative penalty as referred to in point (a) of paragraph 4 shall not exceed 200 % of the amount of the aid application or payment claim;
- (b) notwithstanding point (a), as regards rural development, the amount of the administrative penalty, as referred to in point (a) of paragraph 4, shall not exceed 100 % of the eligible amount;
- (c) the amount of the administrative penalty, as referred to in point (b) of paragraph 4, shall not exceed an amount comparable to the percentage referred to in point (a) of this paragraph;
- (d) the suspension, withdrawal or exclusion referred to in points (c) and (d) of paragraph 4 may be set at a maximum of three consecutive years which may be renewed in the case of any new non-compliance.

6. In order to take account of the deterrent effect of charges and penalties to be imposed on the one hand, and the special characteristics of each aid scheme or support measure covered by sectoral agricultural legislation on the other hand, the Commission shall be empowered to adopt delegated acts in accordance with Article 115:

- (a) identifying, for each aid scheme or support measure and person concerned as referred to in paragraph 3, from the list set out in paragraph 4 and within the limits laid down in paragraph 5, the administrative penalty and determining the specific rate to be imposed by Member States including in cases of non-quantifiable non-compliance;
- (b) identifying the cases in which the administrative penalties are not to be imposed, as referred to in point (f) of paragraph 2.

7. The Commission shall adopt implementing acts, laying down detailed procedural and technical rules for the uniform application of this Article on:

- (a) the application and calculation of the administrative penalties;
- (b) the detailed rules for identifying a non-compliance as minor, including the setting of a quantitative threshold expressed as a nominal value or a percentage of the eligible amount of aid or support, which as regards rural development support shall not be less than 3 % and which as regards all other aid or support shall not be less than 1 %;
- (c) the rules identifying the cases in which, due to the nature of the penalties, Member States may retain the penalties recovered.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 65

Suspension of payments to the Member States in specific cases covered by Regulation (EU) No 1308/2013

1. Where Regulation (EU) No 1308/2013 requires Member States to submit, within a set period, specific information and the Member States fail to send that information within that period or at all, or send incorrect information, the Commission may suspend the monthly payments referred to in Article 18 provided that the Commission has made available to the Member States in good time the information, forms and explanations needed. The amount to be suspended shall relate to the expenditure for the market measures for which the required information was not sent or was not sent in time or is incorrect.

2. In order to ensure the respect of the proportionality principle when applying paragraph 1, the Commission shall be empowered to adopt delegated acts in accordance with

Article 115 concerning the market measures falling under the suspension and the rate and period of suspension of payments referred to in paragraph 1.

3. The Commission shall adopt implementing acts laying down detailed rules on the procedure and other practical arrangements for the proper functioning of the suspension of monthly payments referred to in the paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 66

Securities

1. The Member States shall, when the sectoral agricultural legislation so provides, request the lodging of a security giving the assurance that a sum of money will be paid or forfeited to a competent authority if a particular obligation under sectoral agricultural legislation is not fulfilled.

2. Except in cases of force majeure, the security shall be forfeited in whole or in part where the execution of a particular obligation is not carried out, or is carried out only partially.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 115 laying down rules which ensure a non discriminatory treatment, equity and the respect of proportionality when lodging a security, and:

- (a) specifying the responsible party in the event that an obligation is not met;
- (b) laying down the specific situations in which the competent authority may waive the requirement of a security;
- (c) laying down the conditions applying to the security to be lodged and the guarantor and the conditions for lodging and releasing that security;
- (d) laying down the specific conditions related to the security lodged in connection with advance payments;
- (e) setting out the consequences of breaching the obligations for which a security has been lodged, as provided for in paragraph 1, including the forfeiting of securities, the rate of reduction to be applied on release of securities for refunds, licences, offers, tenders or specific applications and when an obligation covered by that security has not been met either wholly or in part, taking into account the nature of the obligation, the quantity for which the obligation has been breached, the period exceeding the time limit by which the obligation should have been met and the time by which evidence that the obligation has been met is produced.

4. The Commission may adopt implementing acts laying down rules on:

- (a) the form of the security to be lodged and the procedure for lodging the security, for accepting it, and for replacing the original security;

- (b) the procedures for the release of a security;
- (c) the notifications to be made by Member States and by the Commission.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

CHAPTER II

Integrated Administration and Control System

Article 67

Scope and terms used

1. Each Member State shall set up and operate an integrated administration and control system (the 'integrated system').

2. The integrated system shall apply to the support schemes listed in Annex I of Regulation (EU) No 1307/2013 and to the support granted in accordance with points (a) and (b) of Article 21(1) and Articles 28 to 31, 33, 34 and 40 of Regulation 1305/2013 and where applicable points (b) and (c) of Article 35(1) of Regulation (EU) 1303/2013.

This Chapter shall not, however, apply to measures referred to in Article 28(9) of Regulation (EU) No 1305/2013. Nor shall it apply to, measures under points (a) and (b) of Article 21(1) of that Regulation as far as the establishment cost is concerned.

3. To the extent necessary, the integrated system shall also apply to the control of cross-compliance as laid down in Title VI.

4. For the purpose of this Chapter:

- (a) "agricultural parcel" means a continuous area of land, declared by one farmer, which does not cover more than one single crop group; however, where a separate declaration of the use of an area within a crop group is required in the context of Regulation (EU) No 1307/2013, that specific use shall if necessary further limit the agricultural parcel; Member States may lay down additional criteria for further delimitation of an agricultural parcel;
- (b) "area-related direct payment" means the basic payment scheme; the single area payment scheme and the redistributive payment referred to in Chapter 1 of Title III of Regulation (EU) No 1307/2013; the payment for agricultural practices beneficial for the climate and the environment referred to in Chapter 3 of Title III of Regulation (EU) No 1307/2013; the payment for areas with natural constraints referred to in Chapter 4 of Title III of Regulation (EU) No 1307/2013; the payment for young farmers referred to in Chapter 5 of Title III of Regulation (EU) No 1307/2013; the voluntary coupled support referred to in Chapter 1 of Title IV, where the support is paid per hectare; the crop specific payment for cotton referred to in Chapter 2 of Title IV; the small farmers scheme as referred to in Title V of Regulation (EU) No 1307/2013; specific

measures for agriculture in the outermost regions of the Union as referred to in Chapter IV of Regulation (EU) No 228/2013 of the European Parliament and of the Council⁽¹⁾, where support is paid per hectare; and specific measures for agriculture in favour of the smaller Aegean islands as referred to in Chapter IV of Regulation (EU) No 229/2013 of the European Parliament and of the Council⁽²⁾, where the support is paid per hectare.

Article 68

Elements of the integrated system

1. The integrated system shall comprise the following elements:

- (a) a computerised database;
- (b) an identification system for agricultural parcels;
- (c) a system for the identification and registration of payment entitlements;
- (d) aid applications and payment claims;
- (e) an integrated control system;
- (f) a single system to record the identity of each beneficiary of the support referred to in Article 67(2) who submits an aid application or a payment claim.

2. Where applicable, the integrated system shall include a system, set up in accordance with Regulation (EC) No 1760/2000 of the European Parliament and of the Council⁽³⁾ and Council Regulation (EC) No 21/2004⁽⁴⁾ for the identification and registration of animals.

3. Without prejudice to the responsibilities of the Member States for the implementation and application of the integrated system, the Commission may seek the assistance of specialised bodies or persons in order to facilitate the establishment, monitoring and operation of the integrated system, in particular, with a view to providing the competent authorities of the Member States with technical advice, should they request it.

⁽¹⁾ Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

⁽²⁾ Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

⁽³⁾ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1).

⁽⁴⁾ Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).

4. Member States shall take all further measures required for the proper application of the integrated system and shall give one another the mutual assistance needed for the purposes of the checks required under this Regulation.

Article 69

Computerised database

1. The computerised database ("the database") shall record, for each beneficiary of the support referred to in Article 67(2), the data obtained from aid applications and payment claims.

The database shall, in particular, allow consultation through the competent authority of the Member State, of the data relating to the current calendar and/or marketing years and to the previous ten such years. Where the support level of farmers is affected by the data relating to earlier calendar and/or marketing years, starting with 2000, the database shall also allow consultation of the data relating to those years. The database shall also allow direct and immediate consultation of the data relating to at least the previous four consecutive calendar years and for data related to "permanent pasture" as defined in point (c) of Article 2 of Commission Regulation (EC) No 1120/2009 ⁽¹⁾ in its original version and, for periods as from its date of application, "permanent grassland and permanent pasture" as defined in point (h) of Article 4(1) of Regulation (EU) No 1307/2013, relating to at least the previous five consecutive calendar years.

By way of derogation from the second subparagraph, the Member States which acceded to the Union in or after 2004, shall only be required to ensure consultation of the data as from the year of their accession.

2. Member States may set up decentralised databases on condition that these, and the administrative procedures for recording and accessing data, are designed to be homogeneous throughout the territory of the Member State and are compatible with one another in order to allow for cross-checks.

Article 70

Identification system for agricultural parcels

1. The identification system for agricultural parcels shall be established on the basis of maps, land registry documents or other cartographic references. Use shall be made of computerised geographical information system techniques, including aerial or spatial orthoimagery, with a homogenous

standard that guarantees a level of accuracy that is at least equivalent to that of cartography at a scale of 1:10 000 and, as from 2016, at a scale of 1:5 000, while taking into account the outline and condition of the parcel. This shall be fixed in accordance with existing Union standards.

Notwithstanding the first subparagraph, Member States may continue to make use of such techniques including aerial or spatial orthoimagery, with a homogenous standard that guarantees a level of accuracy that is at least equivalent to that of cartography at a scale of 1:10 000 where they were acquired on the basis of long-term contracts that were agreed before November 2012.

2. Member States shall ensure that the identification system for agricultural parcels contains a reference layer to accommodate ecological focus areas. That reference layer shall, in particular, cover the relevant specific commitments and/or environmental certification schemes referred to in Article 43(3) of Regulation (EU) No 1307/2013 that are equivalent to the practices in Article 46 of that Regulation before the application forms referred to in Article 72 of this Regulation for payments for agricultural practices beneficial for the climate and the environment referred to in Articles 43 to 46 of Regulation (EU) No 1307/2013 are provided in respect of claim year 2018 at the latest.

Article 71

System for the identification and registration of payment entitlements

1. The system for the identification and registration of payment entitlements shall allow for verification of the entitlements and for cross-checks with the aid applications and the identification system for agricultural parcels.

2. The system referred to in paragraph 1 shall allow direct and immediate consultation, through the competent authority of the Member State, of the data relating to at least the previous four consecutive calendar years.

Article 72

Aid applications and payment claims

1. Each year, a beneficiary of the support referred to in Article 67(2) shall submit an application for direct payments or a payment claim for the relevant area and animal-related rural development measures respectively indicating, where applicable:

- (a) all the agricultural parcels on the holding, as well as the non-agricultural area for which support referred to in Article 67(2) is claimed;
- (b) the payment entitlements declared for activation;
- (c) any other information provided for in this Regulation or required with a view to the implementation of the relevant sectoral agricultural legislation or by the Member State concerned.

As regards the area-related direct payment, each Member State shall determine the minimum size of agricultural parcels in respect of which an application may be made. However, the minimum size shall not exceed 0,3 ha.

⁽¹⁾ Commission Regulation (EC) No 1120/2009 of 29 October 2009 laying down detailed rules for the implementation of the single payment scheme provided for in Title III of Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (OJ L 316, 2.12.2009, p. 1).

2. By way of derogation from point (a) of paragraph 1, Member States may decide that agricultural parcels of an area of up to 0,1 ha on which an application for payment is not made, do not need to be declared, provided that the sum of such parcels does not exceed 1 ha, and/or may decide that a farmer who does not apply for any area-based direct payment does not have to declare his agricultural parcels in the case where the total area does not exceed 1 ha. In all cases, the farmer shall, indicate in his application that he has agricultural parcels at his disposal and at the request of the competent authorities, shall indicate their location.

3. Member States shall provide, inter alia through electronic means, pre-established forms based on the areas determined in the previous year as well as graphic material indicating the location of those areas.

A Member State may decide that the aid application and the payment claim:

- (a) are valid if the beneficiary confirms the absence of changes with respect to the aid application and the payment claim submitted the previous year,
- (b) need to contain only changes with respect to the aid application and the payment claim submitted for the previous year.

However, with regard to the small farmers scheme provided for in Title V of Regulation (EU) No 1307/2013, that possibility shall be given to all farmers concerned.

4. A Member State may decide that a single application shall cover a number of or all support schemes and measures referred to in Article 67 or other support schemes and measures.

5. By way of derogation from Council Regulation (EEC, Euratom) No 1182/71⁽¹⁾, the calculation of the date for the submission or the amendment of an aid application, of a payment claim or of any supporting documents, contracts or declarations under this Chapter shall be adapted to the specific requirements of the integrated system. The Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning rules applicable to periods, dates and time limits where the final date for submission of applications or amendments is a public holiday, a Saturday or a Sunday.

Article 73

System for the identification of beneficiaries

The single system for recording the identity of each beneficiary of the support as referred to in Article 67(2) shall guarantee that all aid applications and payment claims submitted by the same beneficiary can be identified as such.

⁽¹⁾ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

Article 74

Verification of eligibility conditions and reductions

1. In accordance with Article 59, Member States, through the paying agencies or the bodies delegated by them, shall carry out administrative checks on the aid application to verify the eligibility conditions for the aid. Those checks shall be supplemented by on-the-spot checks.

2. For the purpose of on-the-spot checks Member States shall draw up a sampling plan of agricultural holdings and/or beneficiaries.

3. Member States may use remote sensing and Global Navigation Satellite System (GNSS) techniques as a means of carrying out on-the-spot checks on agricultural parcels.

4. In the case of non-compliance with the eligibility conditions Article 63 shall apply.

Article 75

Payment to beneficiaries

1. The payments under the support schemes and the measures referred to in Article 67(2) shall be made within the period from 1 December to 30 June of the following calendar year.

Payments shall be made in a maximum of two instalments within that period.

Notwithstanding the first and second subparagraphs, Member States may, prior to 1 December but not before 16 October, pay advances of up to 50 % for direct payments and of up to 75 % for the support granted under rural development as referred to in Article 67(2).

With regard to support granted under rural development, as referred to in Article 67(2), this paragraph shall apply in respect of the aid applications or payment claims submitted from claim year 2018, except as regards the payment of advances of up to 75 % provided for in the third subparagraph of this paragraph.

2. Payments referred to in the paragraph 1 shall not be made before the verification of eligibility conditions, to be carried out by the Member States pursuant to Article 74, has been finalised.

By way of derogation from the first subparagraph, advances for support granted under rural development as referred to in Article 67(2) may be paid after the administrative checks pursuant to Article 59(1) have been finalised.

3. In the event of an emergency, the Commission shall adopt implementing acts which are both necessary and justifiable, in order to resolve specific problems in relation to the application of this Article. Such implementing acts may derogate from paragraphs 1 and 2, but only to the extent that, and for such a period, as is strictly necessary.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 76

Delegated powers

1. In order to ensure that the integrated system provided for in this Chapter is implemented in an efficient, coherent and non-discriminatory way which protects the financial interests of the Union, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning:

- (a) specific definitions needed to ensure a harmonised implementation of the integrated system, in addition to those provided for in Regulation (EU) No 1307/2013 and Regulation (EU) No 1305/2013;
- (b) with regards to Articles 67 to 75, rules on further measures necessary to ensure the compliance with control requirements laid down in this Regulation or in sectoral agricultural legislation to be taken by the Member States in respect of producers, services, bodies, organisations or other operators, such as slaughterhouses or associations involved in the procedure for the granting of the aid, where this Regulation does not provide for relevant administrative penalties; such measures shall as far as possible, follow, *mutatis mutandis*, the provisions on penalties set out in paragraphs (1) to (5) of Article 77.

2. In order to ensure a correct distribution of the funds resulting from the aid applications provided for in Article 72 to the entitled beneficiaries and to allow for verification of the fulfilment by them of the obligations related thereto, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning:

- (a) the basic features, technical rules, including, for the update of reference parcels, appropriate tolerance margins taking into account the outline and condition of the parcel, and including rules on the inclusion of landscape features located adjacent to a parcel, and quality requirements for the identification system for agricultural parcels provided for in Article 70 and for the identification of the beneficiaries as provided for in Article 73;
- (b) the basic features, technical rules and quality requirements of the system for the identification and registration of payment entitlements provided for in Article 71;
- (c) the rules to establish the definition of the basis for the calculation of aid, including rules on how to deal with certain cases in which eligible areas contain landscape features or trees; such rules shall allow Member States for areas under permanent grassland to consider scattered landscape features and trees, the total area of which does not exceed a certain percentage of the reference parcel, to

be automatically part of the eligible area without a requirement to map them for that purpose.

Article 77

Application of administrative penalties

1. As regards the administrative penalties referred to in Article 63(2), this Article shall apply in the case of non-compliance with relation to eligibility criteria, commitments or other obligations resulting from the application of the rules on support referred to in Article 67(2).

2. No administrative penalty shall be imposed:

- (a) where the non-compliance is due to force majeure;
- (b) where the non-compliance is due to obvious errors as referred to in Article 59(6);
- (c) where the non-compliance is due to an error of the competent authority or another authority, and where the error could not reasonably have been detected by the person concerned by the administrative penalty;
- (d) where the person concerned can demonstrate to the satisfaction of the competent authority that he or she is not at fault for the non-compliance with the obligations referred to in paragraph 1 or if the competent authority is otherwise satisfied that the person concerned is not at fault;
- (e) where the non-compliance is of a minor nature, including where expressed in the form of a threshold, to be set by the Commission in accordance with point (b) of paragraph 7;
- (f) other cases in which the imposition of a penalty is not appropriate, to be defined by the Commission in accordance with point (b) of paragraph 7.

3. Administrative penalties may be imposed on the beneficiary of the aid or support, including groups or associations thereof, bound by the obligations laid down in the rules referred to in paragraph 1.

4. The administrative penalties may take the following forms:

- (a) a reduction in the amount of aid or support paid or to be paid in relation to the aid applications or payment claims affected by the non-compliance and/or in relation to aid applications or payment claims for previous or subsequent years;
- (b) payment of an amount calculated on the basis of the quantity and/or the period concerned by the non-compliance;
- (c) exclusion from the right to participate in the aid scheme or support measure concerned.

5. The administrative penalties shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance found and shall respect the following limits:

- (a) the amount of the administrative penalty for a given year, as referred to in point (a) of paragraph 4, shall not exceed 100 % of the amounts of the aid applications or payment claims;
- (b) the amount of the administrative penalty for a given year, as referred to in point (b) of paragraph 4, shall not exceed 100 % of the amount of the aid applications or payment claims to which the penalty is applied;
- (c) the exclusion referred to in point (c) of paragraph 4 may be set at a maximum of three consecutive years, which may apply again in the case of any new non-compliance.

6. Notwithstanding paragraphs 4 and 5, as regards the payment referred to in Chapter 3 of Title III of Regulation (EU) No 1307/2013, administrative penalties shall take the form of a reduction in the amount of payments made or to be made under that Regulation.

The administrative penalties referred to in this paragraph shall be proportionate and graduated according to the severity, extent, duration and reoccurrence of the non-compliance concerned.

The amount of such administrative penalties for a given year shall not exceed 0 % for the first two years of application of Chapter 3 of Title III of Regulation (EU) No 1307/2013 (claim years 2015 and 2016), 20 % for the third year of application (claim year 2017) and 25 % starting with the fourth year of application (claim year 2018), of the amount of the payment referred to in Chapter 3 of Title III of Regulation (EU) No 1307/2013 to which the farmer concerned would be entitled if the farmer met the conditions for that payment.

7. In order to take account of the deterrent effect of penalties to be imposed on the one hand, and the specific characteristics of each aid scheme or support measure referred to in Article 67(2) on the other, the Commission shall be empowered to adopt delegated acts in accordance with Article 115:

- (a) identifying, for each aid scheme or support measure and person concerned as referred to in paragraph 3 from the list set out in paragraph 4 and within the limits laid down in paragraphs 5 and 6, the administrative penalty and determining the specific rate to be imposed by Member States, including in cases of non-quantifiable non-compliance;
- (b) identifying, the cases in which the administrative penalties are not to be imposed, as referred to in point (f) of paragraph 2.

8. The Commission shall adopt implementing acts, laying down detailed procedural and technical rules for the uniform application of this Article on:

- (a) rules on the application and calculation of the administrative penalties;
- (b) the detailed rules for identifying a non-compliance as minor, including the setting of a quantitative threshold expressed as a nominal value or a percentage of the eligible amount of aid or support which shall not be less than 0,5 %.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 78

Implementing powers

The Commission shall adopt implementing acts laying down the following:

- (a) the basic features, technical rules and quality requirements for the computerised database provided for in Article 69;
- (b) rules on the aid applications and payments claims provided for in Article 72, and applications for payment entitlements, including the final date for submission of applications, the requirements as to the minimum amount of information to be included in applications, provisions for amendments to or the withdrawal of aid applications, exemption from the requirement to submit aid applications and provisions which allow Member States to apply simplified procedures or to correct obvious errors;
- (c) rules on the carrying out of checks in order to verify compliance with obligations, and the correctness and completeness of the information provided in the aid application or payment claim, including rules on measurement tolerances for on-the-spot checks;
- (d) technical specifications needed for the purpose of the uniform implementation of this Chapter;
- (e) rules on situations of transfer of holdings accompanied by the transfer of any obligation concerning eligibility in respect of the aid in question which still needs to be fulfilled;
- (f) rules on the payment of the advances referred to in Article 75.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

CHAPTER III

Scrutiny of transactions

Article 79

Scope and definitions

1. This Chapter lays down specific rules on the scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF, or their representatives ('undertakings') in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

2. This Chapter shall not apply to measures covered by the integrated system referred to in Chapter II of this Title. In order to respond to changes in sectoral agricultural legislation and to ensure the efficiency of the system of ex-post controls established by this Chapter, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 establishing a list of measures which, due to their design and control requirements, are unsuited for additional ex-post controls by way of scrutiny of commercial documents and, therefore, are not to be subject to such scrutiny under this Chapter.

3. For the purposes of this Chapter the following definitions shall apply:

- (a) "commercial document" means all books, registers, vouchers and supporting documents, accounts, production and quality records, and correspondence relating to the undertaking's business activity, as well as commercial data, in whatever form they may take, including electronically stored data, in so far as these documents or data relate directly or indirectly to the transactions referred to in paragraph 1;
- (b) "third party" means any natural or legal person directly or indirectly connected with transactions carried out within the financing system by the EAGF.

Article 80

Scrutiny by Member States

1. Member States shall carry out systematic scrutiny of the commercial documents of undertakings taking account of the nature of the transactions to be scrutinised. Member States shall ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities. The selection shall take account, inter alia, of the financial importance of the undertakings in that system and of other risk factors.

2. In appropriate cases, the scrutiny provided for in paragraph 1 shall be extended to natural and legal persons with whom undertakings are associated and to such other natural or legal persons as may be relevant for the pursuit of the objectives set out in Article 81.

3. The scrutiny carried out pursuant to this Chapter shall not prejudice the checks undertaken pursuant to Articles 47 and 48.

Article 81

Objectives of the scrutiny

1. The accuracy of primary data under scrutiny shall be verified by a number of cross-checks, including, where necessary, the commercial documents of third parties, appropriate to the degree of risk presented, including:

- (a) comparisons with the commercial documents of suppliers, customers, carriers and other third parties;

(b) physical checks, where appropriate, upon the quantity and nature of stocks;

(c) comparison with the records of financial flows leading to or consequent upon the transactions carried out within the financing system by the EAGF; and

(d) checks, in relation to bookkeeping, or records of financial movements showing, at the time of the scrutiny, that the documents held by the paying agency by way of justification for the payment of aid to the beneficiary are accurate.

2. In particular, where undertakings are required to keep particular book records of stock in accordance with Union or national provisions, scrutiny of those records shall, in appropriate cases, include a comparison with the commercial documents and, where appropriate, with the actual quantities in stock.

3. In the selection of transactions to be checked, full account shall be taken of the degree of risk presented.

Article 82

Access to commercial documents

1. The persons responsible for the undertaking, or a third party, shall ensure that all commercial documents and additional information are supplied to the officials responsible for the scrutiny or to the persons authorised to carry it out on their behalf. Electronically stored data shall be provided on an appropriate data support medium.

2. The officials responsible for the scrutiny or the persons authorised to carry it out on their behalf may require that extracts or copies of the documents referred to in paragraph 1 be supplied to them.

3. Where, during scrutiny carried out pursuant to this Chapter, the commercial documents maintained by the undertaking are considered inadequate for scrutiny purposes, the undertaking shall be directed to maintain in future such records as are required by the Member State responsible for the scrutiny, without prejudice to obligations laid down in other Regulations relating to the sector concerned.

Member States shall determine the date from which such records are to be established.

Where some or all of the commercial documents required to be scrutinised pursuant to this Chapter are located with an undertaking in the same commercial group, partnership or association of undertakings managed on a unified basis as the undertaking scrutinised, whether located inside or outside the territory of the Union, the undertaking shall make those commercial documents available to officials responsible for the scrutiny, at a place and time to be determined by the Member States responsible for carrying out the scrutiny.

4. Member States shall ensure that officials responsible for scrutiny are entitled to seize commercial documents, or have them seized. This right shall be exercised with due regard to the relevant national provisions and shall be without prejudice to the application of rules governing proceedings in criminal matters concerning the seizure of documents.

Article 83

Mutual assistance

1. Member States shall assist each other for the purposes of carrying out the scrutiny provided for in this Chapter in the following cases:

- (a) where an undertaking or third party is established in a Member State other than that in which payment of the amount in question has or should have been made or received;
- (b) where an undertaking or third party is established in a Member State other than that in which the documents and information required for scrutiny are to be found.

The Commission may coordinate joint actions involving mutual assistance between two or more Member States.

2. During the first three months following the EAGF financial year of payment, Member States shall send the Commission a list of undertakings established in a third country for which payment of the amount in question has or should have been made or received in that Member State.

3. If additional information is required in another Member State as part of the scrutiny of an undertaking in accordance with Article 80, and in particular cross-checks in accordance with Article 81, specific scrutiny requests may be made indicating the reasons for the request. An overview of such specific requests shall be sent to the Commission on a quarterly basis within one month after the end of each quarter. The Commission may require that a copy of individual requests be provided.

The scrutiny request shall be fulfilled not later than six months after its receipt; the results of the scrutiny shall be communicated without delay to the requesting Member State and to the Commission. The communication to the Commission shall be on a quarterly basis within one month after the end of each quarter.

Article 84

Programming

1. Member States shall draw up programmes for scrutiny to be carried out pursuant to Article 80 during the subsequent scrutiny period.

2. Each year, before 15 April, Member States shall send the Commission their programme as referred to in paragraph 1 and shall specify:

- (a) the number of undertakings to be scrutinised and their breakdown by sector on the basis of the amounts relating to them;
- (b) the criteria adopted for drawing up the programme.

3. The programmes established by the Member States and forwarded to the Commission shall be implemented by the Member States, if, within eight weeks, the Commission has not made known its comments.

4. Paragraph 3 shall apply *mutatis mutandis* to the amendments to the programme made by the Member States.

5. At any stage, the Commission may request the inclusion of a particular category of undertaking in the programme of a Member States.

6. Undertakings for which the sum of the receipts or payments amounted to less than EUR 40 000 shall be scrutinised in accordance with this Chapter only for specific reasons to be indicated by the Member States in their annual programme referred to in paragraph 1 or by the Commission in any proposed amendment to that programme. In order to take account of economic developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 modifying the threshold of EUR 40 000.

Article 85

Special departments

1. In each Member State, a special department shall be responsible for monitoring the application of this Chapter. Those departments shall, in particular, be responsible for:

- (a) the performance of the scrutiny provided for in this Chapter by officials employed directly by that special department; or
- (b) the coordination and general surveillance of the scrutiny carried out by officials belonging to other departments.

Member States may also provide that scrutiny to be carried out pursuant to this Chapter is allocated between the special departments and other national departments, provided that the former is responsible for its coordination.

2. The department or departments responsible for the application of this Chapter shall be organised in such a way as to be independent of the departments or branches of departments responsible for the payments and the scrutiny checks carried out prior to payment.

3. In order to ensure that this Chapter is properly applied, the special department referred to in paragraph 1 shall take all the measures necessary, and it shall be entrusted by the Member State concerned with all the powers necessary, to perform the tasks referred to in this Chapter.

4. Member States shall adopt appropriate measures to penalise natural or legal persons who fail to fulfil their obligations under this Chapter.

Article 86

Reports

1. Before 1 January, following the scrutiny period, Member States shall send the Commission a detailed report on the application of this Chapter.

2. The Member States and the Commission shall have regular exchanges of views on the application of this Chapter.

Article 87

Access to information and scrutiny by the Commission

1. In accordance with the relevant national laws, Commission officials shall have access to all documents prepared either with a view to or following the scrutiny organised under this Chapter and to the data held, including those stored in the data-processing systems. That data shall be provided upon request on an appropriate data support medium.

2. The scrutiny referred to in Article 80 shall be carried out by the officials of the Member States. Officials of the Commission may participate in that scrutiny. They may not themselves exercise the powers of scrutiny accorded to national officials. However, they shall have access to the same premises and to the same documents as the officials of the Member States.

3. In the case of scrutiny taking place under Article 83, officials of the requesting Member State may be present, with the agreement of the requested Member State, at the scrutiny in the requested Member State and have access to the same premises and the same documents as the officials of that Member State.

Officials of the requesting Member State present at scrutiny in the requested Member State shall at all time be able to furnish proof of their official capacity. The scrutiny shall at all times be carried out by officials of the requested Member State.

4. Without prejudice to the provisions of Regulations (EU, Euratom) 883/2013 and (Euratom, EC) No 2185/96, where national provisions concerning criminal procedure reserve certain acts for officials specifically designated by the national law, neither the officials of the Commission, nor the officials of the Member State referred to in paragraph 3, shall take part in these acts. In any event, they shall, in particular not take part in home visits or the formal interrogation of persons in the context of the criminal law of the Member State concerned. They shall, however, have access to information thus obtained.

Article 88

Commission powers

The Commission shall, where necessary, adopt implementing acts laying down rules for the uniform application of this Chapter and in particular relating to the following:

- (a) the performance of the scrutiny referred to in Article 80 as regards the selection of undertakings, rate and the calendar for the scrutiny;
- (b) the conservation of commercial documents and the types of documents to maintain or data to record;
- (c) the performance and coordination of joint actions referred to in Article 83(1);
- (d) the details and specifications regarding the content, form and means of submission of requests, the content, form and means of notification, submission and exchange of information required in the framework of this Chapter;
- (e) conditions and means of publication or specific rules and conditions for the diffusion or making available by the Commission to the competent authorities of the Member States of the information needed in the framework of this Regulation;
- (f) the responsibilities of the special department referred to in Article 85;
- (g) the content of reports referred to in Article 86.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

CHAPTER IV

Other provisions on checks and penalties

Article 89

Other checks and penalties related to marketing rules

1. Member States shall take measures to ensure that the products referred to in Article 119(1) of Regulation (EU) No 1308/2013 which are not labelled in conformity with the provisions of that Regulation are not placed on, or are withdrawn from, the market.

2. Without prejudice to any specific provisions which may be adopted by the Commission, imports into the Union of the products specified in points (a) and (b) of paragraph 1 of Article 189 of Regulation (EU) No 1308/2013 shall be subject to checks to determine whether the conditions provided for in paragraph 1 of that Article are met.

3. Member States shall carry out checks, based on a risk analysis, in order to verify whether products referred to in Annex I to Regulation (EU) No 1308/2013 conform to the rules laid down in Section I of Chapter I of Title II of Part II of Regulation (EU) No .../2013 and shall apply administrative penalties as appropriate.

4. Without prejudice to acts regarding the wine sector adopted on the basis of Article 64, in the event of infringement of Union rules in the wine sector, Member States shall apply proportionate, effective and dissuasive administrative penalties. Such penalties shall not apply in the cases set out in points (a) to (d) of Article 64(2) and where the non-compliance is of a minor nature.

5. In order to protect Union funds and the identity, provenance and quality of Union wine, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 relating to:

- (a) the establishment of an analytical databank of isotopic data to help detect fraud to be constructed on the basis of samples collected by Member States;
- (b) rules on control bodies and the mutual assistance between them;
- (c) rules on the common use of the findings of Member States;

6. The Commission may adopt implementing acts laying down all measures necessary for:

- (a) the procedures relating to Member States' own databanks and to the analytical databank of isotopic data that will help detect fraud;
- (b) the procedures relating to cooperation and assistance between control authorities and bodies;
- (c) as regards the obligation referred to in paragraph 3, rules for performing the checks of compliance with marketing standards, rules on the authorities responsible for performing the checks, as well as on the content, the frequency and the marketing stage to which those checks are to apply.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 90

Checks related to designation of origin and geographical indications and protected traditional terms

1. Member States shall take the necessary steps to stop unlawful use of protected designations of origin, protected geographical indication and protected traditional terms referred to in Regulation (EU) No 1308/2013.

2. Member State shall designate the competent authority responsible for carrying out the checks in respect of the obligations laid down in Section II of Chapter I of Title II of Part 2 of Regulation (EU) No 1308/2013 in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004

of the European Parliament and of the Council⁽¹⁾ and shall ensure that any operator complying with those obligations is entitled to be covered by a system of checks.

3. Within the Union, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine shall be ensured by the competent authority referred to in paragraph 2 or by one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.

4. The Commission shall, adopt implementing acts concerning the following:

- (a) the communications to be made by the Member States to the Commission;
- (b) rules on the authority responsible for the verification of compliance with the product specification, including where the geographical area is in a third country;
- (c) the actions to be implemented by the Member States to prevent the unlawful use of protected designations of origin, protected geographical indications and protected traditional terms;
- (d) the checks and verification to be carried out by the Member States, including testing.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

TITLE VI

CROSS-COMPLIANCE

CHAPTER I

Scope

Article 91

General principle

1. Where a beneficiary referred to in Article 92 does not comply with the rules on cross-compliance as laid down in Article 93, an administrative penalty shall be imposed on that beneficiary.

2. The administrative penalty referred to in paragraph 1 shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one, or both, of the following additional conditions are met:

- (a) the non-compliance is related to the agricultural activity of the beneficiary;
- (b) the area of the holding of the beneficiary is concerned.

⁽¹⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1).

With regard to forest areas, however, this penalty shall not apply in so far as no support is claimed for the area concerned in accordance with point (a) of Article 21(1), and Articles 30 and 34 of Regulation (EU) No 1305/2013.

3. For the purpose of this Title the following definitions shall apply:

- (a) 'holding' means all the production units and areas managed by the beneficiary referred to in Article 92 situated within the territory of the same Member State;
- (b) "requirement" means each individual statutory management requirement under Union law referred to in Annex II within a given act, differing in substance from any other requirements of the same act.

Article 92

Beneficiaries concerned

Article 91 shall apply to beneficiaries receiving direct payments under Regulation (EU) No 1307/2013, payments under Articles 46 and 47 of Regulation (EU) No 1308/2013 and the annual premia under points (a) and (b) of Article 21(1), Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013.

However, Article 91 shall not apply to beneficiaries participating in the small farmers scheme as referred to in Title V of Regulation (EU) No 1307/2013. The penalty provided for in that Article shall also not apply to the support as referred to in Article 28(9) of Regulation (EU) No 1305/2013.

Article 93

Rules on cross-compliance

1. The rules on cross-compliance shall consist of the statutory management requirements under Union law and the standards for good agricultural and environmental condition of land established at national level as listed in Annex II, relating to the following areas:

- (a) environment, climate change and good agricultural condition of land;
- (b) public, animal and plant health;
- (c) animal welfare.

2. The legal acts referred to in Annex II concerning the statutory management requirements shall apply in the version in force and, in the case of Directives, as implemented by the Member States.

3. In addition, as regards the years 2015 and 2016, the rules on cross-compliance shall also include the maintenance of permanent pasture. The Member States which were Members of the Union on 1 January 2004 shall ensure that land which was under permanent pasture on the date provided for in the

area aid applications for 2003 is maintained under permanent pasture within defined limits. The Member States which became Member of the Union in 2004 shall ensure that land which was under permanent pasture on 1 May 2004 is maintained under permanent pasture within defined limits. Bulgaria and Romania shall ensure that land which was under permanent pasture on 1 January 2007 is maintained under permanent pasture within defined limits. Croatia shall ensure that land which was under permanent pasture on 1 July 2013 is maintained under permanent pasture within defined limits.

The first subparagraph shall not apply to land under permanent pasture to be afforested if such afforestation is compatible with the environment and with the exclusion of plantations of Christmas trees and fast growing species cultivated in the short term.

4. In order to take account of paragraph 3, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 laying down the rules on maintenance of permanent pasture, in particular in order to ensure that measures are taken to maintain the land under permanent pasture at the level of farmers, including individual obligations to be respected such as obligation to reconvert areas into permanent pasture where it is established that the ratio of land under permanent pasture is decreasing.

In order to ensure a correct application of the obligations of the Member States on the one hand and individual farmers on the other hand, as regards the maintenance of permanent pasture, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 to establish the conditions and methods for the determination of the ratio of permanent pasture and agricultural land that has to be maintained.

5. For the purpose of paragraphs 3 and 4, "permanent pasture" means permanent pasture as defined in point (c) of Article 2 of Regulation (EC) No 1120/2009 in its original version.

Article 94

Obligations of Member States relating to good agricultural and environmental condition

Member States shall ensure that all agricultural area, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum standards for beneficiaries for good agricultural and environmental condition of land on the basis of Annex II, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures.

Member States shall not define minimum requirements which are not established in Annex II.

Article 95

Information to beneficiaries

Member States shall provide the beneficiaries concerned, where appropriate by the use of electronic means, with the list of the requirements and standards to be applied at farm level, as well as clear and precise information thereon.

CHAPTER II

Control system and administrative penalties in relation to cross-compliance

Article 96

Checks of cross-compliance

1. Member States shall make use, where appropriate, of the integrated system laid down in Chapter II of Title V and in particular of points (a), (b), (d), (e) and (f) of Article 68(1).

Member States may make use of their existing administration and control systems to ensure compliance with the rules on cross-compliance.

Those systems, and notably the system for the identification and registration of animals set up in accordance with Council Directive 2008/71/EC⁽¹⁾ and Regulations (EC) No 1760/2000 and (EC) No 21/2004, shall be compatible with the integrated system referred to in Chapter II of Title V of this Regulation.

2. Depending on the requirements, standards, acts or areas of cross-compliance in question, Member States may decide to carry out administrative checks, in particular those already provided for under the control systems applicable to the respective requirement, standard, act or area of cross-compliance.

3. Member States shall carry out on-the-spot checks to verify whether a beneficiary complies with the obligations laid down in this Title.

4. The Commission shall adopt implementing acts, laying down rules on the carrying out of checks in order to verify compliance with the obligations referred to under this Title, including rules allowing that risk analysis takes account of the following factors:

- (a) a farmer's participation in the farm advisory system as provided for in Title III of this Regulation;
- (b) a farmer's participation in a certification system, if it covers the requirements and standards concerned.

⁽¹⁾ Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs (OJ L 213, 8.8.2008, p. 31).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

Article 97

Application of the administrative penalty

1. The administrative penalty provided for in Article 91 shall be imposed where the rules on cross-compliance are not complied with at any time in a given calendar year ('the calendar year concerned'), and where the non-compliance in question is directly attributable to the beneficiary who submitted the aid application or the payment claim in the calendar year concerned.

The first subparagraph shall apply *mutatis mutandis* to beneficiaries who are found not to have complied with the rules on cross-compliance, at any time during three years from 1 January of the year following the calendar year in which the first payment was granted under the support programmes for restructuring and conversion or at any time during one year from 1 January of the year following the calendar year in which the payment was granted under the support programmes for green harvesting referred to in Regulation (EU) No 1308/2013 ('the years concerned').

2. In cases in which the land is transferred during the calendar year concerned or the years concerned, paragraph 1 shall also apply where the non-compliance in question is the result of an act or omission directly attributable to the person to whom or from whom the agricultural land was transferred. By way of derogation from the first sentence, where the person to whom the act or omission is directly attributable has submitted an aid application or a payment claim in the calendar year concerned or the years concerned, the administrative penalty shall be imposed on the basis of the total amounts of the payments referred to in Article 92 granted or to be granted to that person.

For the purpose of this paragraph, 'transfer' means any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

3. Notwithstanding paragraph 1, and subject to the rules to be adopted pursuant to Article 101, Member States may decide not to apply an administrative penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less.

Where a Member State decides to make use of the option provided for in the first subparagraph, the competent authority shall, for a sample of beneficiaries, take in the following year the actions necessary to verify that the beneficiary has remedied the findings of non-compliance concerned. The finding and the obligation to take remedial action shall be notified to the beneficiary.

4. The imposition of an administrative penalty shall not affect the legality and regularity of the payments to which it applies.

*Article 98***Application of the administrative penalty in Bulgaria, Croatia and Romania**

For Bulgaria and Romania, the administrative penalties referred to in Article 91 shall be applied at the latest from 1 January 2016 as regards the statutory management requirements in the area of animal welfare referred to in Annex II.

For Croatia, the penalties referred to in Article 91 shall be applied in accordance with the following time schedule as regards the statutory management requirements (SMR) referred to in Annex II:

- (a) from 1 January 2014 for SMR 1 to SMR 3 and SMR 6 to SMR 8;
- (b) from 1 January 2016 for SMR 4, SMR 5, SMR 9 and SMR 10;
- (c) from 1 January 2018 for SMR 11 to SMR 13.

*Article 99***Calculation of the administrative penalty**

1. The administrative penalty provided for in Article 91 shall be applied by means of reduction or exclusion of the total amount of the payments listed in Article 92 granted or to be granted to the beneficiary concerned in respect of aid applications he has submitted or will submit in the course of the calendar year of the finding.

For the calculation of those reductions and exclusions, account shall be taken of the severity, extent, permanence and reoccurrence of the non-compliance found as well as of the criteria set out in paragraphs 2, 3 and 4.

2. In the case of non compliance due to negligence, the percentage of reduction shall not exceed 5 % and, in the case of reoccurrence, shall not exceed 15 %.

Member States may set up an early warning system that applies to cases of non-compliance which, given their minor severity, extent and duration, shall not, in duly justified cases, lead to a reduction or exclusion. Where a Member State decides to make use of this option, the competent authority shall send an early warning to the beneficiary, notifying the beneficiary of the finding and the obligation to take remedial action. In case a subsequent check establishes that the non-compliance has not been remedied, the reduction pursuant to the first subparagraph shall be applied retroactively.

However, cases of non-compliance which constitute a direct risk to public or animal health shall always lead to a reduction or exclusion.

Member States may give priority access to the farm advisory system to the beneficiaries who have received for the first time an early warning.

3. In the case of intentional non-compliance, the percentage reduction shall in principle not be less than 20 % and may go as far as total exclusion from one or several aid schemes and may apply for one or more calendar years.

4. In any event, the total amount of reductions and exclusions for one calendar year shall not be more than the total amount referred to in the first subparagraph of paragraph 1.

*Article 100***Amounts resulting from cross-compliance**

Member States may retain 25 % of the amounts resulting from the application of the reductions and exclusions referred to in Article 99.

*Article 101***Commission powers in relation to the application and calculation of administrative penalties**

1. In order to ensure a correct distribution of the funds to the entitled beneficiaries and that cross-compliance is carried out in an efficient, coherent and non-discriminatory way, the Commission shall be empowered to adopt delegated acts in accordance with Article 115:

- (a) establishing a harmonised basis for calculation of administrative penalties due to cross-compliance referred to in Article 99, taking into account reductions due to financial discipline;
- (b) laying down the conditions for the application and calculation of the administrative penalties due to cross-compliance, including in the case of non-compliance directly attributable to the beneficiary concerned.

2. The Commission shall adopt implementing acts laying down detailed procedural and technical rules concerning the calculation and application of administrative penalties referred to in Articles 97 to 99, including as regards beneficiaries consisting of a group of persons under Articles 28 and 29 of Regulation (EU) No 1305/2013.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

TITLE VII

COMMON PROVISIONS

CHAPTER I

Communication*Article 102***Communication of information**

1. In addition to the provisions laid down in the sectoral Regulations, Member States shall send to the Commission the following information, declarations and documents:

- (a) for accredited paying agencies and accredited coordinating bodies:

- (i) their accreditation document;
 - (ii) their function (accredited paying agency or accredited coordinating body);
 - (iii) where relevant, the withdrawal of their accreditation,
- (b) for certification bodies:
- (i) their name;
 - (ii) their address,
- (c) for measures relating to operations financed by the Funds:
- (i) declarations of expenditure, which also act as payment requests, signed by the accredited paying agency or the accredited coordinating body and accompanied by the requisite information;
 - (ii) estimates of their financial requirements, with regard to the EAGF and, with regard to the EAFRD, an update of estimated declarations of expenditure which will be submitted during the year and estimated declarations of expenditure in respect of the following financial year;
 - (iii) the management declaration and the annual accounts of the accredited paying agencies;
 - (iv) an annual summary of the results of all available audits and checks carried out in accordance with the schedule and detailed provisions laid down in the sector specific rules.

The annual accounts of accredited paying agencies relating to EAFRD expenditure shall be submitted at the level of each programme.

2. Member States shall inform the Commission in detail of the measures taken to implement the good agricultural and environmental condition referred to in Article 94 and the details of the farm advisory system referred to in Title III.

3. Member State shall inform the Commission regularly of the application of the integrated system referred to in Chapter II of Title V. The Commission shall organise exchanges of views on this subject with the Member States.

Article 103

Confidentiality

1. Member States and the Commission shall take all necessary steps to ensure the confidentiality of the information communicated or obtained under inspection and clearance of accounts measures implemented under this Regulation.

The rules laid down in Article 8 of Regulation (Euratom, EC) No 2185/96 shall apply to that information.

2. Without prejudice to national provisions relating to legal proceedings, information collected in the course of scrutiny as provided for in Chapter III of Title V shall be protected by professional secrecy. It shall not be communicated to any persons other than those who, by reason of their duties in the Member States or in the institutions of the Union, are required to have knowledge thereof for the purposes of performing those duties.

Article 104

Commission powers

The Commission may adopt implementing acts laying down rules on:

- (a) the form, content, intervals, deadlines and arrangements for transmitting or making available to the Commission:
 - (i) declarations of expenditure and estimates of expenditure and their updates, including assigned revenue;
 - (ii) management declaration and annual accounts of the paying agencies, as well as the results of all available audits and controls carried out;
 - (iii) the account certification reports;
 - (iv) the names and particulars of accredited paying agencies, accredited coordinating bodies and certification bodies;
 - (v) arrangements for taking account of and paying expenditure financed by the Funds;
 - (vi) notifications of financial adjustments made by Member States in connection with rural development operations or programmes, and summary reports on the recovery procedures undertaken by the Member States in response to irregularities;
 - (vii) information on the measures taken pursuant to Article 58.
- (b) the arrangements governing exchanges of information and documents between the Commission and the Member States, and the implementation of information systems, including the type, format and content of data to be processed by these systems and the corresponding data storage rules;
- (c) the notification to the Commission by Member States of information, documents, statistics and reports, as well as the deadlines and methods for their notification.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

CHAPTER II

Use of the euro

Article 105

General principles

1. The amounts given in the Commission decisions adopting rural development programmes, the amounts of commitments and payments by the Commission and the amounts of expenditure attested or certified and amounts in declarations of expenditure by the Member States shall be expressed and paid in euro.
2. The prices and amounts fixed in the sectoral agricultural legislation shall be expressed in euro.

They shall be granted or collected in euro in the Member States which have adopted the euro and in the national currency in the Member States which have not.

Article 106

Exchange rate and operative event

1. The prices and amounts referred to in Article 105(2) shall be converted in the Member States which have not adopted the euro into the national currency by means of an exchange rate.
2. The operative event for the exchange rate shall be:
 - (a) the completion of customs import or export formalities in the case of amounts collected or granted in trade with third countries;
 - (b) the event whereby the economic objective of the operation is attained in all other cases.
3. Where a direct payment as provided for in Regulation (EU) No 1307/2013 is made to a beneficiary in a currency other than the euro, Member States shall convert the amount of aid expressed in euro into the national currency on the basis of the most recent exchange rate set by the European Central Bank prior to 1 October of the year for which the aid is granted.

By way of derogation from the first subparagraph, Member States may decide, in duly justified cases, to carry out the conversion on the basis of the average of the exchange rates set by the European Central Bank during the month prior to 1 October of the year for which the aid is granted. Member States that choose that option shall set and publish that average rate before 1 December of that year.

4. As regards EAGF, when drawing up their declarations of expenditure, Member States which have not adopted the euro shall apply the same exchange rate as that which they used to make payments to beneficiaries or receive revenue, in accordance with the provisions of this Chapter.

5. In order to specify the operative event referred to in paragraph 2 or to fix it for reasons peculiar to the market

organisation or the amount in question, the Commission shall be empowered to adopt delegated acts in accordance with Article 115, containing rules on those operative events and the exchange rate to be used. The specific operative event shall be determined taking account of the following criteria:

- (a) actual applicability as soon as possible of adjustments to the exchange rate;
- (b) similarity of the operative events for analogous operations carried out under the market organisation;
- (c) coherence in the operative events for the various prices and amounts relating to the market organisation;
- (d) practicability and effectiveness of checks on the application of suitable exchange rates.

6. In order to avoid the application by the Member States which have not adopted the euro of different exchange rates in accounts of revenue received or aid paid to beneficiaries in a currency other than the euro, on the one hand, and in the establishment of the declaration of expenditure drawn up by the paying agency, on the other, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 laying down rules on the exchange rate applicable when declarations of expenditure are drawn up and when public storage operations are recorded in the accounts of the paying agency.

Article 107

Safeguard measures and derogations

1. The Commission may adopt implementing acts safeguarding the application of Union law if exceptional monetary practices related to national currency are likely to jeopardise it. Those implementing acts may only derogate from the existing rules for a period of time which is strictly necessary.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

The European Parliament, the Council and the Member States shall be notified forthwith of the measures referred to in the first subparagraph.

2. Where exceptional monetary practices concerning a national currency are liable to jeopardise the application of Union law, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 derogating from this Section, in particular in the following cases:

- (a) where a country uses abnormal exchange techniques such as multiple exchange rates or operates barter agreements;
- (b) where countries have currencies which are not quoted on official foreign exchange markets or where the trend in such currencies is likely to create distortion in trade.

*Article 108***Use of the euro by non-euro Member States**

1. If a Member State which has not adopted the euro decides to pay the expenditure resulting from sectoral agricultural legislation in euro rather than in its national currency, the Member State shall take measures to ensure that the use of the euro does not provide a systematic advantage compared with the use of national currency.

2. The Member State shall notify the Commission of the measures planned before they come into effect. The measures may not take effect until the Commission has notified its agreement thereto.

*CHAPTER III***Report and evaluation***Article 109***Annual financial report**

By end September of each year following the budget year, the Commission shall draw up a financial report on the administration of the Funds during the previous financial year, which it shall submit to the European Parliament and the Council.

*Article 110***Monitoring and evaluation of the CAP**

1. A common monitoring and evaluation framework shall be established with a view to measuring the performance of the CAP, and in particular of:

- (a) the direct payments provided for in Regulation (EU) No 1307/2013;
- (b) the market measures provided for in Regulation (EU) No 1308/2013;
- (c) the rural development measures provided for in Regulation (EU) No 1305/2013 and of,
- (d) the provisions of this Regulation.

The Commission shall monitor these policy measures based on reporting by Member States in accordance with the rules laid down in the Regulations referred to in the first subparagraph. The Commission shall establish a multiannual evaluation plan including periodic evaluations of specific instruments which it will carry out.

In order to ensure an effective performance measurement, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 regarding the content and construction of that framework.

2. The performance of the CAP measures referred to in paragraph 1 shall be measured in relation to the following objectives:

- (a) viable food production, with a focus on agricultural income, agricultural productivity and price stability;
- (b) sustainable management of natural resources and climate action, with a focus on greenhouse gas emissions, biodiversity, soil and water;
- (c) balanced territorial development, with a focus on rural employment, growth and poverty in rural areas.

The Commission shall adopt implementing acts, laying down the set of indicators specific to the objectives referred to in the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

The indicators shall be linked to the structure and objectives of the policy and shall allow for the assessment of the progress, effectiveness and efficiency of the policy against objectives.

3. The monitoring and evaluation framework shall reflect the structure of the CAP in the following way:

- (a) for the direct payments provided for in Regulation (EU) No 1307/2013, the market measures provided for in Regulation (EU) No 1308/2013 and the provisions of this Regulation, the Commission shall monitor these instruments based on reporting by Member States in accordance with the rules laid down in these regulations. The Commission shall establish a multi-annual evaluation plan with periodic evaluations of specific instruments to be carried out under Commission responsibility. Evaluations shall be carried out timely and by independent evaluators.
- (b) the monitoring and evaluation of rural development policy intervention will be carried out according to Articles 67 to 79 of Regulation (EU) No 1305/2013.

The Commission shall ensure that the combined impact of all CAP instruments referred to in paragraph 1 is measured and assessed in relation to the common objectives referred to in paragraph 2. The performance of the CAP in achieving its common objectives shall be measured and assessed on the basis of common impact indicators, and the underlying specific objectives on the basis of result indicators. Based on evidence provided in evaluations on the CAP, including evaluations on rural development programmes, as well as other relevant information sources, reports on measuring and assessing the joint performance of all CAP instruments shall be prepared by the Commission.

4. Member States shall provide the Commission with all the information necessary to permit the monitoring and evaluation of the measures concerned. As far as possible, such information shall be based on established sources of data, such as the Farm Accountancy Data Network and Eurostat.

The Commission shall take into account the data needs and synergies between potential data sources, in particular their use for statistical purposes when appropriate.

The Commission shall adopt implementing acts, laying down rules on the information to be sent by the Member States, taking into account the need to avoid any undue administrative burden, as well as rules on the data needs and synergies between potential data sources. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

5. The Commission shall present an initial report on the implementation of this Article, including first results on the performance of the CAP, to the European Parliament and the Council by 31 December 2018. A second report including an assessment of the performance of the CAP shall be presented by 31 December 2021.

CHAPTER IV

Transparency

Article 111

Publication of beneficiaries

1. Member States shall ensure annual ex-post publication of the beneficiaries of the Funds. The publication shall contain:

- (a) without prejudice to the first paragraph of Article 112 of this Regulation, the name of the beneficiary, as follows:
 - (i) the first name and the surname where the beneficiary is a natural person;
 - (ii) the full legal name as registered where the beneficiary is a legal person with the autonomous legal personality pursuant to the legislation of the Member State concerned;
 - (iii) the full name of the association as registered or otherwise officially recognised where the beneficiary is an association without an own legal personality;
- (b) the municipality where the beneficiary is resident or is registered and, where available, the postal code or the part thereof identifying the municipality;
- (c) the amounts of payment corresponding to each measure financed by the Funds received by each beneficiary in the financial year concerned;
- (d) the nature and the description of the measures financed by either of the Funds and under which the payment referred to in point (c) is awarded.

The information referred to in the first subparagraph shall be made available on a single website per Member State. It shall remain available for two years from the date of the initial publication.

2. As regards the payments corresponding to the measures financed by the EAFRD as referred to in point (c) of the first

subparagraph of paragraph 1, the amounts to be published shall correspond to the total public funding, including both the Union and the national contribution.

Article 112

Threshold

Member States shall not publish the name of a beneficiary as provided for in point (a) of the first subparagraph of Article 111(1) of this Regulation in the following situations:

- (a) in the case of Member States establishing the Small farmers scheme provided for in Title V of Regulation (EU) No 1307/2013, where the amount of aid received in one year by a beneficiary is equal to or less than the amount fixed by the Member State as referred to in the second subparagraph of Article 63(1) or the second subparagraph of Article 63(2) of that Regulation;
- (b) in the case of Member States not establishing the Small farmers scheme provided for in Title V of Regulation (EU) No 1307/2013, where the amount of aid received in one year by a beneficiary is equal to or less than EUR 1 250.

Where point (a) of the first subparagraph applies, the amounts fixed by the Member States pursuant to Article 63 of Regulation (EU) No 1307/2013 and notified to the Commission under that Regulation shall be made public by the Commission in accordance with the rules adopted under Article 114.

Where the first paragraph of this Article applies the Member States shall publish the information referred to in points (b), (c) and (d) of the first subparagraph of Article 111(1) and the beneficiary shall be identified by a code. Member States shall decide on the form of that code.

Article 113

Information of the beneficiaries

Member States shall inform the beneficiaries that their data will be made public in accordance with Article 111 and that the data may be processed by auditing and investigating bodies of the Union and the Member States for the purpose of safeguarding the Union's financial interests.

In accordance with the requirements of Directive 95/46/EC, where personal data is concerned, the Member States shall inform the beneficiaries of their rights under the data protection rules and of the procedures applicable for exercising those rights.

Article 114

Commission powers

The Commission shall adopt implementing acts laying down rules on:

- (a) the form, including the way of presentation by measure, and the calendar of the publication foreseen in Articles 111 and 112;
- (b) the uniform application of Article 113;

(c) the cooperation between the Commission and Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 116(3).

TITLE VIII

FINAL PROVISIONS

Article 115

Exercise of the delegation

1. The power to adopt delegated acts referred to in Articles 8, 20, 40, 46, 50, 53, 57, 62, 63, 64, 65, 66, 72, 76, 77, 79, 84, 89, 93, 101, 106, 107, 110 and 120 is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 8, 20, 40, 46, 50, 53, 57, 62, 63, 64, 65, 66, 72, 76, 77, 79, 84, 89, 93, 101, 106, 107, 110 and 120 shall be conferred on the Commission for a period of seven years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of powers referred to in Articles 8, 20, 40, 46, 50, 53, 57, 62, 63, 64, 65, 66, 72, 76, 77, 79, 84, 89, 93, 101, 106, 107, 110 and 120 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to in Articles 8, 20, 40, 46, 50, 53, 57, 62, 63, 64, 65, 66, 72, 76, 77, 79, 84, 89, 93, 101, 106, 107, 110 and 120 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months on the initiative of the European Parliament or the Council.

Article 116

Committee procedure

1. The Commission shall be assisted by a committee named the Committee on the Agricultural Funds. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of Articles 15, 58, 62, 63, 64, 65, 66, 75, 77, 78, 89, 90, 96, 101 and 104, as regards matters relating to direct payments, rural development and/or the common organisation of markets, the Commission shall be assisted by the Committee on the Agricultural Funds, the Committee for Direct Payments, the Rural Development Committee and/or the Committee for the Common Organisation of the Agricultural Markets established by this Regulation, Regulation (EU) No 1307/2013, Regulation (EU) No 1305/2013 and Regulation (EU) No 1308/2013, respectively. Those committees shall be committees within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of acts referred to in Article 8, where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 117

Processing and protection of personal data

1. Member States and the Commission shall collect personal data for the purpose of carrying out their respective management, control, audit as well as monitoring and evaluation obligations under this Regulation and, in particular, those laid down in Chapter II of Title II, Title III, Chapters III and IV of Title IV, Titles V and VI and Chapter III of Title VII, as well as for statistical purposes, and shall not process this data in a way that is incompatible with that purpose.

2. Where personal data are processed for monitoring and evaluation purposes under Chapter III of Title VII, as well as for statistical purposes, they shall be made anonymous and processed in aggregated form only.

3. Personal data shall be processed in accordance with the rules of Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which enables data subjects to be identified for longer than is necessary for the purposes for which those data were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.

4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that in this respect they enjoy the rights set out in the respective data protection rules of Directive 95/46/EC and Regulation (EC) No 45/2001.

5. This Article shall be subject to Articles 111 to 114.

*Article 118***Level of implementation**

Member States shall be responsible for implementing programmes and carrying out their tasks under this Regulation at the level they deem appropriate, in accordance with the institutional, legal and financial framework of the Member State and subject to compliance with this Regulation and other relevant Union rules.

*Article 119***Repeal**

1. Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 are repealed.

However, Article 31 of Regulation (EC) No 1290/2005 and the relevant implementing rules shall continue to apply until 31 December 2014.

2. References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex III.

*Article 120***Transitional measures**

In order to ensure the smooth transition from the arrangements provided for in the repealed Regulations referred to in Article 118 to those laid down in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 115 concerning the cases in which derogations from, and additions to, the rules provided for in this Regulation may apply.

*Article 121***Entry into force and application**

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

It shall apply from 1 January 2014.

2. However, the following provisions shall apply as follows:

- (a) Articles 7, 8, 16, 25, 26 and 43 from 16 October 2013;
- (b) Articles 18 and 40, for expenditure effected, from 16 October 2013;
- (c) Article 52 from 1 January 2015.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. JUKNA

ANNEX I

INFORMATION IN THE FIELD OF CLIMATE CHANGE MITIGATION AND ADAPTATION, BIODIVERSITY AND THE PROTECTION OF WATER AS LAID DOWN IN POINT (D) OF ARTICLE 12(3)

Climate change mitigation and adaptation:

- Information on the prospective impact of climate change in the relevant regions, of the green house gas emissions of the relevant farming practices and on the contribution of the agricultural sector to mitigation through improved farming and agroforestry practices and through the development of renewable energy projects on farm and energy efficiency improvement on farm.
- Information helping farmers to plan how best to invest in "climate-proofing" their farm systems, and which Union funds they can use to do so; and in particular, information on adapting farmland to climatic fluctuations and longer term changes and information on how to adopt practical agronomic measures to increase the resilience of farming systems to floods and droughts as well as information on how to improve and optimise soil carbon levels.

Biodiversity:

- Information on the positive correlation between biodiversity and agro-ecosystem resilience, and the spreading of risk, and also the link between monocultures and susceptibility to crop failure/damage from pests and extreme climatic events
- Information on how to best prevent the spread of alien invasive species and why this is important for the effective functioning of the ecosystem and for its resilience to climate change, including information on access to funding for eradication schemes where additional costs are implied

Protection of water:

- Information on sustainable, low-volume irrigation systems and how to optimise rain-fed systems, in order to promote efficient water use.
- Information on reducing water use in agriculture, including crop choice, on improving soil humus to increase water retention and on reducing the need to irrigate.

General:

- Exchange of best practice, training and capacity building (applicable to Climate change mitigation and adaptation, Biodiversity and Protection of water as mentioned above in this Annex).

ANNEX II

RULES ON CROSS-COMPLIANCE PURSUANT TO ARTICLE 93

SMR: Statutory management requirement

GAEC: Standards for good agricultural and environmental condition of land

Area	Main Issue	Requirements and standards		
Environment, climate change, good agricultural condition of land	Water	SMR 1	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
		GAEC 1	Establishment of buffer strips along water courses ⁽¹⁾	
		GAEC 2	Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	
		GAEC 3	Protection of ground water against pollution: prohibition of direct discharge into groundwater and measures to prevent indirect pollution of groundwater through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Annex to Directive 80/68/EEC in its version in force on the last day of its validity, as far as it relates to agricultural activity	
	Soil and carbon stock	GAEC 4	Minimum soil cover	
		GAEC 5	Minimum land management reflecting site specific conditions to limit erosion	
		GAEC 6	Maintenance of soil organic matter level through appropriate practices including ban on burning arable stubble, except for plant health reasons ⁽²⁾	
	Biodiversity	SMR 2	Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7)	Article 3(1), Article 3(2)(b), Article 4(1), (2) and (4)
		SMR 3	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6(1) and (2)
	Landscape, minimum level of maintenance	GAEC 7	Retention of landscape features, including where appropriate, hedges, ponds, ditches, trees in line, in group or isolated, field margins and terraces, and including a ban on cutting hedges and trees during the bird breeding and rearing season and, as an option, measures for avoiding invasive plant species	
Public health, animal health and plant health	Food safety	SMR 4	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1)	Articles 14 and 15, Article 17(1) ⁽³⁾ and Articles 18, 19 and 20

Area	Main Issue	Requirements and standards		
		SMR 5	Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC (OJ L 125, 23.5.1996, p. 3)	Article 3(a), (b), (d) and (e) and Articles 4, 5 and 7
	Identification and registration of animals	SMR 6	Council Directive 2008/71/EC of 15 July 2008 on identification and registration of pigs (OJ L 213, 8.8.2005, p. 31)	Articles 3, 4 and 5
		SMR 7	Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97(OJ L 204, 11.8.2000, p. 1)	Articles 4 and 7
		SMR 8	Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8)	Articles 3, 4 and 5
	Animal diseases	SMR 9	Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)	Articles 7, 11, 12, 13 and 15
Plant protection products	SMR 10	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1)	Article 55, first and second sentence	
Animal welfare	Animal welfare	SMR 11	Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves (OJ L 10, 15.1.2009, p. 7)	Articles 3 and 4
		SMR 12	Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 47, 18.2.2009, p. 5)	Article 3 and Article 4
		SMR 13	Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes(OJ L 221, 8.8.1998, p. 23)	Article 4

(¹) The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC.

(²) The requirement can be limited to a general ban on burning arable stubble, but a Member State may decide to prescribe further requirements.

(³) As implemented in particular by:

- Article 14 of Regulation (EC) No 470/2009 and the Annex of Regulation (EC) No 37/2010,
- Regulation (EC) No 852/2004: Article 4(1) and Annex I part A (II 4 (g, h, j), 5 (f, h), 6; III 8 (a, b, d, e), 9 (a, c)),
- Regulation (EC) No 853/2004: Article 3(1) and Annex III Section IX Chapter 1 (I-1 b, c, d, e; I-2 a (i, ii, iii), b (i, ii), c; I-3; I-4; I-5; II-A 1, 2, 3, 4; II-B 1(a, d), 2, 4 (a, b)), Annex III Section X Chapter 1(1),
- Regulation (EC) No 183/2005: Article 5(1) and Annex I, part A (I-4 e, g; II-2 a, b, e), Article 5(5) and Annex III (1, 2), Article 5(6), and
- Regulation (EC) No 396/2005: Article 18.

ANNEX III

CORRELATION TABLE

1. Regulation (EEC) No 352/78

Regulation (EEC) No 352/78	This Regulation
Article 1	Article 43(1)(e)
Article 2	Article 43(2)
Article 3	Article 46(1)
Article 4	—
Article 5	—
Article 6	—

2. Regulation (EC) No 2799/98

Regulation (EC) No 2799/98	This Regulation
Article 1	—
Article 2	Article 105(2) and 106
Article 3	Article 106
Article 4	—
Article 5	—
Article 6	—
Article 7	Article 107
Article 8	Article 108
Article 9	—
Article 10	—
Article 11	—

3. Regulation (EC) No 814/2000

Regulation (EC) No 814/2000	This Regulation
Article 1	Article 45(1)
Article 2	Article 45(2)
Article 3	—
Article 4	—
Article 5	—
Article 6	—
Article 7	—
Article 8	Article 45(5)
Article 9	—
Article 10	Articles 45(4) and 116
Article 11	—

4. Regulation (EC) No 1290/2005

Regulation (EC) No 1290/2005	This Regulation
Article 1	Article 1
Article 2	Article 3
Article 3	Article 4
Article 4	Article 5
Article 5	Article 6
Article 6	Article 7
Article 7	Article 9
Article 8	Article 102
Article 9	Article 58
Article 10	Article 10
Article 11	Article 11
Article 12	Article 16
Article 13	Article 19
Article 14	Article 17
Article 15	Article 18
Article 16	Article 40
Article 17	Article 41(1)
Article 17a	Article 41(2)
Article 18	Article 24
Article 19	Article 27
Article 20	Article 28
Article 21	Article 29
Article 22	Article 32
Article 23	Article 33
Article 24	Article 34
Article 25	Article 35
Article 26	Article 36
Article 27	Article 41(1)
Article 27a	Article 41(2)
Article 28	Article 37
Article 29	Article 38
Article 30	Article 51
Article 31	Article 52
Article 32	Article 54 and 55
Article 33	Article 54 and 56
Article 34	Article 43

Regulation (EC) No 1290/2005	This Regulation
Article 35	—
Article 36	Article 48
Article 37	Article 47
Article 38	—
Article 39	—
Article 40	—
Article 41	Article 116
Article 42	—
Article 43	Article 109
Article 44	Article 103
Article 44a	Article 113(1)
Article 45	Article 105(1) and 106(3) and (4)
Article 46	—
Article 47	Article 119
Article 48	Article 120
Article 49	Article 121
5. Regulation (EC) No 485/2008	
Regulation (EC) No 485/2008	This Regulation
Article 1	Article 79
Article 2	Article 80
Article 3	Article 81
Article 4	—
Article 5	Article 82(1), (2) and (3)
Article 6	Article 82(4)
Article 7	Article 83
Article 8	Article 103(2)
Article 9	Article 86
Article 10	Article 84
Article 11	Article 85
Article 12	Article 106(3)
Article 13	—
Article 14	—
Article 15	Article 87
Article 16	—
Article 17	—

Joint statement by the European Parliament and the Council on cross-compliance

The Council and the European Parliament invite the Commission to monitor the transposition and the implementation by the Member States of Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy and Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides and, where appropriate, to come forward, once these Directives have been implemented in all Member States and the obligations directly applicable to farmers have been identified, with a legislative proposal amending this regulation with a view to including the relevant parts of these Directives in the system of cross-compliance.

**REGULATION (EU) No 1307/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 december 2013**

**establishing rules for direct payments to farmers under support schemes within the framework of
the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council
Regulation (EC) No 73/2009**

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 42 and Article 43(2) thereof,

Having regard to the 1979 Act of Accession, and in particular paragraph 6 of Protocol No 4 on cotton attached thereto,

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 Court of Auditors ⁽¹⁾,

Having regard to the opinions of the European Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the ordinary legislative procedure ⁽⁴⁾,

Whereas:

- (1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future" set out potential challenges, objectives and orientations for the Common Agricultural Policy ("the CAP") after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 73/2009 ⁽⁵⁾. In view of the scope of the reform, it is appropriate to repeal Regulation (EC)

No 73/2009 and to replace it with a new text. The reform should also streamline and simplify the relevant provisions.

- (2) One of the core objectives, and one of the key requirements, of the CAP reform is the reduction of the administrative burden. This should be taken firmly into account when shaping the relevant provisions for the direct support scheme.
- (3) All the basic elements pertaining to the payment of Union support to farmers should be included in this Regulation, which should also fix the conditions of access to payments which are inextricably linked to those basic elements.
- (4) It is necessary to clarify that Regulation (EU) No 1306/2013 of the European Parliament and of Council ⁽⁶⁾ and the provisions adopted pursuant to it are to apply in relation to the measures set out in this Regulation. For the sake of consistency with other legal instruments relating to the CAP, some rules currently provided for in Regulation (EC) No 73/2009 are now laid down in Regulation (EU) No 1306/2013, in particular the rules to guarantee compliance with the obligations laid down by direct payment provisions, including checks and the application of administrative measures and administrative penalties in the case of non-compliance, the rules related to cross-compliance such as the statutory management requirements, the good agricultural and environmental condition, the monitoring and evaluation of relevant measures and the rules related to the payment of advances and the recovery of undue payments.
- (5) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

⁽¹⁾ Opinion of 8 March 2012 (not yet published in the Official Journal).

⁽²⁾ OJ C 191, 29.6.2012, p. 116 and OJ C 44, 15.2.2013, p. 159.

⁽³⁾ OJ C 225, 27.7.2012, p. 174.

⁽⁴⁾ Position of the European Parliament of 20 November 2013 (not yet published in the Official Journal).

⁽⁵⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

⁽⁶⁾ Regulation (EU) No 1306/2013 of the European Parliament and of Council of 17 december 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (See page 549 of this Official Journal).

- (6) This Regulation should contain a list of the direct payment support schemes covered by it. In order to take into account new legislation on support schemes which may be adopted after the entry into force of this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of the amendment of that list.
- (7) In order to ensure legal certainty, the power to adopt certain acts should be delegated to the Commission in respect of establishing the framework within which Member States are to define the criteria to be met by farmers in order to fulfil the obligation to maintain the agricultural area in a state suitable for grazing or cultivation, and the minimum activities to be carried out on areas naturally kept in a state suitable for grazing or cultivation, as well as the criteria to determine the predominance of grasses and other herbaceous forage and to determine the established local practices as regards permanent grassland and permanent pasture ('permanent grassland').
- (8) With a view to ensuring that the amounts for the financing of the CAP comply with the annual ceilings referred to in Article 16(1) of Regulation (EU) No 1306/2013, an adjustment of the level of direct support in any calendar year should be made as provided for under Article 25 of that Regulation. In order to ensure that it contributes to achieving the objective of a more balanced distribution of payments between small and large beneficiaries, the adjustment of the direct payments should only be applied to payments to be granted to farmers in excess of EUR 2 000 in the corresponding calendar year. Taking into account the levels of direct payments to farmers in Bulgaria, Croatia and Romania in the framework of the application of the phasing-in mechanism to all direct payments granted in those Member States, this instrument of financial discipline should only apply in Bulgaria and Romania from 1 January 2016, and in Croatia from 1 January 2022. Specific rules should be laid down in respect of that instrument of financial discipline and of certain other provisions in the case of a legal person, or a group of natural or legal persons, where national law provides for individual members' rights and obligations comparable to those of individual farmers who have the status of a head of holding, in order to strengthen the agricultural structures and promote the establishment of the legal persons or groups concerned.
- (9) In order to ensure the correct application of the adjustment of direct payments with respect to financial discipline, the power to adopt certain acts should be delegated to the Commission in respect of rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to the application of the financial discipline.
- (10) Experience acquired in the application of the various support schemes for farmers has shown that support was in a number of cases granted to natural or legal persons whose business purpose was not, or was only marginally targeted at an agricultural activity. To ensure that support is better targeted, Member States should refrain from granting direct payments to certain natural and legal persons unless such persons can demonstrate that their agricultural activity is not marginal. Member States should also have the possibility of not granting direct payments to other natural or legal persons whose agricultural activity is marginal. However, Member States should be allowed to grant direct payments to smaller part-time farmers, since those farmers contribute directly to the vitality of rural areas. Member States should also refrain from granting direct payments to natural or legal persons whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and who do not carry out a certain minimum activity.
- (11) In order to guarantee the protection of the rights of farmers, the power to adopt certain acts should be delegated to the Commission in respect of laying down criteria for determining the cases where a farmer's agricultural area is to be considered to be mainly an area naturally kept in a state suitable for grazing or cultivation, criteria to establish the distinction between receipts resulting from agricultural and from non-agricultural activities and the amount of direct payments relevant for applying the marginality test, and criteria to be met by farmers in order to prove that their agricultural activity is not marginal.
- (12) To avoid the excessive administrative burden caused by managing payments of small amounts, Member States should in general refrain from granting direct payments where the amount would be lower than EUR 100, or where the eligible area of the holding for which support is claimed would be less than one hectare. However, as Member States' farming structures vary considerably and may differ significantly from the average farming structure in the Union, Member States should be allowed to apply minimum thresholds that reflect their particular situation. Due to the very specific farming structure in the outermost regions and the smaller Aegean Islands, Member States should be able to decide whether any minimum threshold should apply in those regions. Moreover, Member States should opt for the implementation of one of the two types of minimum threshold, taking account of the particularities of the structures of their farming sectors. Since payment could be granted to farmers with so-called 'landless' holdings, the application of the hectare-based threshold would be ineffective. The support-related minimum amount should therefore apply to such farmers. To ensure the equal treatment of farmers in Bulgaria, Croatia and Romania

whose direct payments are subject to phasing-in, the minimum threshold should, in those Member States, be based on the final amounts to be granted at the end of the phasing-in process.

- (13) The distribution of direct income support among farmers is characterised by the allocation of disproportionate amounts of payments to a rather small number of large beneficiaries. Larger beneficiaries, due to their ability to exploit economies of size, do not require the same level of unitary support in order for the objective of income support to be efficiently achieved. Moreover, the potential to adapt makes it easier for larger beneficiaries to operate with lower levels of unitary support. Member States should therefore reduce by at least 5 % the part of the basic payment to be granted to farmers which exceeds EUR 150 000. To avoid disproportionate effects on large farms with high employment numbers, Member States may decide to take into account salaried labour intensity when applying the mechanism. In order to make such reduction of the support level effective, no advantage should be granted to farmers who artificially create the conditions to avoid its effects. The proceeds of the reduction of payments to large beneficiaries should remain in the Member States where they were generated and should be made available as Union support for measures financed under the European Agricultural Fund for Rural Development (EAFRD).
- (14) Net ceilings should be determined for each Member State in order to limit the payments to be made to farmers following the application of the reduction of payments. To take into account the specific characteristics of CAP support granted in accordance with Regulation (EU) No 228/2013 of the European Parliament and of the Council ⁽¹⁾ and Regulation (EU) No 229/2013 of the European Parliament and of the Council ⁽²⁾, and the fact that these direct payments are not subject to reduction of payments, the net ceiling for the Member States concerned should not include those direct payments.
- (15) In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by the Member States regarding transfers between the first and second pillars and the application of the reduction and, where applicable, capping of payments, as well as those resulting from the notifications to be made by Croatia regarding the de-mined land that has returned to use for agricultural activities,

the power to adopt certain acts should be delegated to the Commission in respect of adapting the national and net ceilings set out in this Regulation.

- (16) It should be specified that those provisions of this Regulation which could give rise to behaviour of a Member State capable of constituting State aid are excluded from the application of the State aid rules, given that the provisions concerned include appropriate conditions for the granting of support, or envisage the adoption of such conditions by the Commission, in order to prevent any undue distortion of competition.
- (17) With a view to strengthening their rural development policy, Member States should be given the possibility to transfer funds from their direct payments ceiling to their support assigned for rural development. Member States should also be given the possibility to transfer funds from their support assigned for rural development to their direct payments ceiling. To ensure the effectiveness of this tool, Member States should be given the possibility to review their initial decision once, with effect from claim year 2018, provided that any decision based on such review does not entail any decrease in the amounts assigned for rural development.
- (18) In order to achieve the objectives of the CAP, the support schemes may need to be adapted to changing developments, if necessary within short time-limits. Therefore, it is necessary to provide for a possible review of the support schemes, in particular in the light of economic developments or the budgetary situation, with the result that beneficiaries cannot assume that support conditions remain unchanged.
- (19) Farmers in Member States which acceded to the Union on or after 1 May 2004 received direct payments following a phasing-in mechanism provided for in the respective Acts of Accession. For Bulgaria and Romania, such mechanism will still be in force in 2015, and for Croatia, it will be in force until 2021. Furthermore, those Member States were allowed to grant complementary national direct payments. The possibility for granting such payments should be maintained for Croatia and, as a complement to the basic payment scheme for Bulgaria and Romania, until they are fully phased-in. As regards authorising Croatia to grant complementary national direct payments, the Commission should be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽³⁾.

⁽¹⁾ Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

⁽²⁾ Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

⁽³⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (20) Regulation (EC) No 73/2009, as amended by the Act of Accession of 2011, provides for a special national de-mining reserve for Croatia in order to finance, for a period of ten years after its accession to the Union, the allocation of payment entitlements to land which is de-mined and returned to agricultural use every year. It is appropriate to set the rules for determining the amounts allotted to funding support for that land under the support schemes provided for in this Regulation and the rules for the management of that reserve. In order to take account of the amounts resulting from the notifications to be made by Croatia regarding the de-mined land that has returned to use for agricultural activities, the power to adopt certain acts should be delegated to the Commission in respect of reviewing certain financial provisions applying to Croatia.
- (21) In order to ensure a better distribution of support across agricultural land in the Union, including in those Member States which applied the single area payment scheme established under Regulation (EC) No 73/2009, a new basic payment scheme should replace the single payment scheme established under Council Regulation (EC) No 1782/2003⁽¹⁾, and continued under Regulation (EC) No 73/2009, which combined previously existing support mechanisms in a single scheme of decoupled direct payments. Such a move should, in principle, result in the expiry of payment entitlements obtained under those Regulations and the allocation of new ones. That allocation of new payment entitlements should be based, as a general rule, on the number of eligible hectares at the disposal of farmers in the first year of implementation of the scheme. However, Member States which currently operate the single payment scheme on a regional or regional hybrid basis should have the possibility of keeping their existing payment entitlements. In order to avoid a situation in a given Member State in which an increase in the eligible area dilutes disproportionately the amount of direct payments per hectare and thus affects the internal convergence process, Member States should be allowed, when carrying out the first allocation of payment entitlements, to apply certain limitations for the purpose of establishing the number of payment entitlements.
- (22) Due to the successive integration of various sectors into the single payment scheme and the subsequent period of adjustment granted to farmers, it has become increasingly difficult to justify the existence of significant individual differences in the level of support per hectare resulting from use of historical references. Therefore, direct income
- support should be more equitably distributed between Member States, by reducing the link to historical references and having regard to the overall context of the Union budget. To ensure a more equal distribution of direct support, while taking account of the differences that still exist in wage levels and input costs, the levels of direct support per hectare should be progressively adjusted. Member States that have direct payments below the level of 90 % of the Union average should close one third of the gap between their current level and this level, with all Member States arriving at a minimum level by financial year 2020. This convergence should be financed proportionally by all Member States that have direct payment levels above the Union average level.
- (23) In addition, as a general rule, all payment entitlements activated in 2019 in a Member State or in a region should have a uniform unit value. However, in order to avoid disruptive financial consequences for farmers, Member States should be allowed to take historical factors into account when calculating the value of payment entitlements which farmers should have in 2019, provided that no payment entitlements in 2019 have a value lower than 60 % of the average. Member States should finance this convergence by reducing, on the basis of objective and non-discriminative criteria which they are to establish, the value of payment entitlements that exceeds the 2019 average. In this context and in order to avoid unacceptably disruptive losses for certain farmers, Member States may limit this reduction to 30 % of the initial value of the concerned entitlements, even if such a limitation does not allow for all payment entitlements to reach 60 % of the average value for 2019. Except for those Member States that opt for a uniform unit value from the first year of implementation of the scheme, the convergence should be made in equal steps. The convergence of the payment entitlements with a value above the average should also take account of the estimated resources available for payment entitlements. However, for those Member States which keep their existing payment entitlements and which have already opted for convergence steps in accordance with Article 63(3) of Regulation (EC) No 1782/2003, those convergence steps should be implemented, where applicable, and the value of all payment entitlements should be adjusted to take account of the estimated resources available for payment entitlements.
- (24) The experience gained through applying the single payment scheme has shown that some of its main elements should be kept, including the determination of national ceilings to ensure that the total level of support does not exceed current budgetary constraints. Member States should also continue to operate a national reserve, or should be allowed to establish regional reserves. Such national or regional reserves should be used, as a matter of priority, to facilitate the participation of young farmers and farmers commencing their agricultural activity in the scheme and using them should

⁽¹⁾ Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ L 270, 21.10.2003, p. 1).

be allowed in order to take account of certain other specific situations. Rules on the transfer and use of payment entitlements should be retained.

- (25) The experience gained through applying Regulation (EC) No 73/2009 has shown that Member States did not use the entire amount of the funds available under the national ceilings laid down in that Regulation. While, compared to the system under that Regulation, this Regulation reduces the risk of unspent funds Member States should nonetheless have the possibility of distributing payment entitlements for a higher value than the amount available for their basic payment scheme, in order to facilitate a more efficient use of the funds. Member States should therefore be allowed, within certain common limits and in respect of the net ceilings for direct payments, to calculate the necessary amount by which their basic payment ceiling may be increased.
- (26) As a general rule, any agricultural area of the holding, including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted to apply the single area payment scheme, that is used for an agricultural activity is eligible to benefit from the basic payment. Given the potential for non-agricultural activities to contribute to the income diversification of agricultural holdings and to the vitality of rural areas, an agricultural area of a holding that is used also for non-agricultural activities is to be considered eligible on condition that it is used predominantly for agricultural activities. For the purpose of assessing that predominance, common criteria should be set for all Member States. In this context and in order to ensure better targeting of direct payments, it should be possible for Member States to draw up, in the interests of legal certainty and clarity, a list of areas which are predominantly used for non-agricultural activities and are hence ineligible. Furthermore, in order to maintain the eligibility of land that was eligible for the purpose of activating set-aside entitlements prior to the abolition of the set-aside obligation, it should be provided that certain afforested areas, including those afforested under national schemes complying with the relevant rules in Council Regulation (EC) No 1698/2005 ⁽¹⁾ or Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽²⁾, or areas subject to certain environmental commitments, are eligible to benefit from the basic payment.
- (27) In order to avoid a situation in which, in a given Member State, an increase in the eligible area dilutes disproportionately the amount of direct payments per hectare and thus affects the internal convergence process, Member States should be allowed to use a reduction coefficient for determining the eligible area of permanent grassland where grasses and other herbaceous forage are traditionally not predominant in grazing areas, but form part of established local practices.
- (28) As regards hemp, specific measures should be kept to ensure that illegal crops cannot be hidden among the crops eligible for the basic payment, thereby adversely affecting the market for hemp. Hence, payments should continue to be granted only for areas sown with varieties of hemp offering certain guarantees with regard to its psychotropic substance content.
- (29) In order to ensure legal certainty, and in order to clarify the specific situations that may arise in the application of the basic payment scheme, the power to adopt certain acts should be delegated to the Commission in respect of rules on eligibility and access in respect of the basic payment scheme of farmers, in the case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, transfer of payment entitlements, and in the case of a merger or scission of the holding and in the case of a contract clause regarding the right to receive payment entitlements in the first year of allocation of payment entitlements. Moreover, that delegation of power should also cover rules on the calculation of the value and number or on the change in the value of payment entitlements in relation to the allocation of payment entitlements, including rules on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer, on the conditions for establishing the provisional and definitive value and number of the payment entitlements and on the cases where a sale or lease contract could affect the allocation of payment entitlements. Furthermore, that delegation of power should also cover rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve or regional reserves; rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and the transfer of payment entitlements without land. In addition, that delegation of power should also cover criteria for the allocation of payment entitlements to farmers who did not receive direct payments in 2013 or pursuant to the use of the national or regional reserve; criteria for applying limitations on the number of payment entitlements to be allocated; and criteria for setting the reduction coefficient for conversion of certain permanent grassland to eligible hectares.

⁽¹⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

⁽²⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (See page 487 of this Official Journal).

- (30) In order to ensure the proper management of payment entitlements, the power to adopt certain acts should be delegated to the Commission in respect of rules on the content of the declaration and the requirements for the activation of payment entitlements.
- (31) In order to preserve public health, the power to adopt certain acts should be delegated to the Commission in respect of laying down rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and defining the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content.
- (32) In view of the considerable administrative, technical and logistical difficulties the transition to the basic payment scheme represents for the Member States applying the single area payment scheme under Regulation (EC) No 73/2009, they should be allowed to apply the single area payment scheme for the purpose of granting the basic payment for a further transitional period until the end of 2020 at the latest. If a Member State decides to introduce the basic payment scheme by 2018, it may opt for differentiating the payments under the single area payment scheme according to the level of certain payments granted in 2014 under the regimes for specific support and separate payments provided for in Regulation (EC) No 73/2009, or, in the case of Cyprus, under the sector-specific financial envelopes for transitional national aid.
- (33) In order to guarantee the protection of the rights of beneficiaries and in order to clarify the specific situations that may arise in the application of the single area payment scheme, the power to adopt certain acts should be delegated to the Commission in respect of laying down rules on eligibility and access in respect of the single area payment scheme of farmers.
- (34) In Member States applying the single area payment scheme which were allowed to grant transitional national aid, such aid has played an important role in supporting the income of farmers in specific sectors. For that reason, and in order to avoid a sudden and substantial decrease of support from 2015 in those sectors benefiting, until 2014, from transitional national aid, it is appropriate to provide, in those Member States, for the possibility to grant that aid as a complement to the single area payment scheme. In order to ensure the continuity of the support with the transitional national aid granted so far, it is appropriate to limit the conditions to those applicable in 2013 to that aid, or in the case of Bulgaria and Romania to complementary national direct payments, authorised by the Commission following the requests from Member States. It is also appropriate to limit the maximum amounts of aid by sector, compared to their levels in 2013, to ensure a steady decrease of the aid levels and to ensure their compatibility with the convergence mechanism.
- (35) Specific rules should be provided for the first allocation and for the calculation of the value of payment entitlements when Member States having applied the single area payment scheme pursuant to this Regulation introduce the basic payment scheme. In order to ensure a smooth transition between those schemes, the power to adopt certain acts should be delegated to the Commission in respect of further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.
- (36) Taking into account the need for the unitary support to farmers with smaller holdings to be sufficient in order to achieve the objective of income support effectively, Member States should be allowed to redistribute direct support between farmers by granting them an extra payment for the first hectares.
- (37) One of the objectives of the new CAP is the enhancement of environmental performance through a mandatory "greening" component of direct payments which will support agricultural practices beneficial for the climate and the environment applicable throughout the Union. For that purpose, Member States should use part of their national ceilings for direct payments in order to grant, on top of the basic payment, an annual payment which may take account of internal convergence in the Member State or region, for compulsory practices to be followed by farmers addressing, as a priority, both climate and environment policy goals. Those practices should take the form of simple, generalised, non-contractual and annual actions that go beyond cross-compliance and that are linked to agriculture, such as crop diversification, the maintenance of permanent grassland, including traditional orchards where fruit trees are grown in low density on grassland, and the establishment of ecological focus areas. In order to better achieve the objectives of "greening" and to allow for its efficient administration and control, such practices should apply to the whole eligible area of the holding. The compulsory nature of those practices should also concern farmers whose holdings are fully or partly situated in "Natura 2000" areas covered by Council Directive 92/43/EEC⁽¹⁾ and by Directive 2009/147/EC of the European Parliament and of the Council⁽²⁾, or in areas covered by Directive 2000/60/EC of the European Parliament and of the Council⁽³⁾, as long as those practices are compatible with the objectives of those Directives.

⁽¹⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽²⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁽³⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

- (38) Given the recognised environmental benefits of the organic farming systems, farmers should, for those units of their holding on which they fulfil the conditions laid down in Council Regulation (EC) No 834/2007⁽¹⁾, benefit from the "greening" component without needing to fulfil any further obligation.
- (39) Failure to respect the "greening" component should lead to penalties on the basis of Regulation (EU) No 1306/2013.
- (40) In order to accommodate the diversity of agricultural systems and the different environmental situations across the Union, it is justified to recognise, in addition to the three greening practices established in this Regulation, practices covered by agri-environment-climate measures or certification schemes that are similar to greening and that yield an equivalent or higher level of benefit for the climate and the environment. For reasons of legal clarity these practices should be laid down in an Annex to this Regulation. Member States should decide whether to offer to farmers the possibility of using equivalent practices and the greening practices established in this Regulation in order to require the farmer to observe the practices best suited to ensure the objectives of the measure and they should notify the Commission of their decisions. For reasons of legal certainty, the Commission should assess whether the practices covered by the notified equivalent measures are covered by the Annex. If the Commission considers this not to be the case, it should notify Member States accordingly by means of an implementing act adopted without applying Regulation (EU) No 182/2011. In order to allow a simpler implementation of equivalence and for reasons of controllability, rules should be laid down as regards the area coverage of equivalent measures, taking into account the specific characteristics of agri-environment-climate measures and certification schemes. In order to ensure that equivalent practices are properly applied and that double funding is avoided, the power to adopt certain acts should be delegated to the Commission for the purpose of adding practices to the list of equivalent practices, establishing requirements for the national or regional certification schemes and, where necessary, establishing detailed rules for the calculation of related amounts.
- (41) The obligations relating to crop diversification should be applied in a way that takes into account the difficulty for smaller farms to diversify, while continuing to make progress towards enhanced environmental benefit, and in particular the improvement of soil quality. Exceptions should be provided for farms that already fulfil the objectives of crop diversification as a result of being covered to a significant extent by grassland or fallowland, for specialised farms rotating their parcels each year or for farms that because of their geographical localisation would have excessive difficulties in introducing a third crop. In order to ensure that the obligations referred to in the crop diversification measure are applied in a proportionate and non-discriminatory way and lead to an enhanced environmental protection, the power to adopt certain acts should be delegated to the Commission in respect of recognising further genera and species and laying down rules concerning the application of the precise calculation of shares of different crops.
- (42) For the sake of the environmental benefits of permanent grassland and in particular carbon sequestration, provision should be made for the maintenance of permanent grassland. This protection should consist of a ban on ploughing and conversion on the environmentally most sensitive areas in "Natura 2000" areas covered by Directives 92/43/EEC and 2009/147/EC, and of a more general safeguard, based on a ratio of permanent grassland, against conversion to other uses. Member States should be empowered to delineate further environmentally sensitive areas not covered by those Directives. In addition, they should choose at which territorial level the ratio should apply. In order to assure an efficient protection of permanent grassland, the power to adopt certain acts should be delegated to the Commission for the purpose of defining the framework for the designation, by Member States, of permanent grasslands not covered by Directives 92/43/EEC or 2009/147/EC.
- (43) In order to ensure that the ratio of permanent grassland to the total agricultural area is correctly determined and maintained, the power to adopt certain acts should be delegated to the Commission in respect of the establishment of detailed methods for the determination of that ratio, detailed rules on maintenance of permanent grassland and the relevant time frame for an obligation upon individual farmers to reconvert land.
- (44) Ecological focus areas should be established, in particular, in order to safeguard and improve biodiversity on farms. The ecological focus area should therefore consist of areas directly affecting biodiversity such as land lying fallow, landscape features, terraces, buffer strips, afforested areas and agro-forestry areas, or indirectly affecting biodiversity through a reduced use of inputs on the farm, such as areas covered by catch crops and winter green cover. The obligations laid down in respect of the ecological focus area should be applied in a way that avoids putting a disproportionate burden on smaller farms in comparison to the additional enhanced environmental benefit. Exceptions should be provided for farms that already fulfil the objectives of ecological focus areas by being covered to a significant extent by grassland or fallowland. Exceptions should also be provided, in the case of predominantly forested Member States, for farmers that pursue an agricultural activity in areas

⁽¹⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

facing natural constraints in certain predominantly forested areas where there is a significant risk of land abandonment. In addition, provision should be made for the possibility for Member States and farmers to implement at a regional or collective level the obligation in order to obtain adjacent ecological focus areas that are more beneficial for the environment. For the sake of simplification, Member States should have the option to standardise the measurement of the ecological focus areas.

- (45) In order to ensure that ecological focus areas are established in an efficient and coherent way, while taking into account Member States' specific characteristics, the power to adopt certain acts should be delegated to the Commission in respect of laying down further criteria for the qualification of areas as ecological focus areas; recognising other types of ecological focus areas; establishing conversion and weighting factors for certain types of ecological focus areas; establishing rules for the implementation, by Member States, of a part of the ecological focus area at regional level; laying down rules for collective implementation of the obligation to keep ecological focus areas by holdings in close proximity; establishing the framework for the criteria, to be defined by Member States, for identifying such close proximity; and establishing the methods of determination of the ratio of forest to agricultural land. When adding other types of ecological focus area, the Commission should ensure that they aim to improve the general environmental performance of the holding, in particular as regards biodiversity, the improvement of soil and water quality, the preservation of landscape and meeting the climate change mitigation and adaptation objectives.
- (46) In order to promote the sustainable development of agriculture in areas with specific natural constraints, Member States should be able to use part of their direct payments ceilings to grant an annual area-based payment, on top of the basic payment, to all farmers operating in those areas or in some of those areas, where decided by the Member State. That payment should not replace the support given under rural development programmes and should not be granted to farmers in areas which were designated in accordance with Regulation (EC) No 1698/2005 but have not been designated in accordance with Regulation (EU) No 1305/2013.
- (47) The creation and development of new economic activity in the agricultural sector by young farmers is financially challenging and constitutes an element that should be considered in the allocation and targeting of direct payments. This development is essential for the competitiveness of the agricultural sector in the Union and, for that reason, an income support to young farmers commencing their agricultural activities should be established in order to facilitate the initial establishment of young farmers and the structural adjustment of their holdings after the initial setting up. For that purpose, Member States should use part of their national ceilings for direct payments to grant to young farmers an annual payment, on top of the basic payment. Member States should be able to decide on a calculation method for that payment and, if that method implies an obligation to set a limit on the payment per farmer, such a limit is to be set in respect of the general principles of Union law. Since it should only cover the initial period of the life of the business and should not become an operating aid, that payment should only be granted during a maximum period of five years. It should be available to young farmers commencing their agricultural activity who are no more than 40 years of age in the year of the first submission of the application under the basic payment scheme or under the single area payment scheme.
- (48) In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination between them, the power to adopt certain acts should be delegated to the Commission in respect of defining the conditions under which a legal person may be considered eligible for receiving the payment for young farmers.
- (49) Member States should be allowed to use part of their national ceilings for direct payments for coupled support in certain sectors or regions in clearly defined cases. The resources that may be used for any coupled support should be limited to an appropriate level, while allowing such support to be granted in Member States in their specific sectors or regions facing particular situations where specific types of farming or specific agricultural sectors are particularly important for economic, environmental and/or social reasons. Member States should be allowed to use up to 8 % of their national ceilings for this support, or 13 % where their level of coupled support exceeds 5 % in at least one of the years of the period 2010-2014 or where they apply the single area payment scheme until 31 December 2014. Furthermore, in order to maintain the protein-based autonomy of the breeding sector, Member States which decide to use at least 2 % of their national ceilings to support the production of protein crops should be allowed to increase those percentages by up to two percentage points. In duly justified cases where certain sensitive needs in a sector or a region are demonstrated, and upon approval by the Commission, Member States should be allowed to use more than 13 % of their national ceiling. As an alternative to those percentages, Member States may choose to use up to EUR 3 million per year for financing the coupled support. Coupled support should only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned. That support should also be available to farmers holding, on

31 December 2013, special payment entitlements allocated under Regulation (EC) No 1782/2003 and Regulation (EC) No 73/2009, and who do not have eligible hectares for the activation of payment entitlements. As regards the approval of voluntary coupled support exceeding 13 % of the annual national ceiling fixed per Member State, the Commission should be further empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.

- (50) In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the power to adopt certain acts should be delegated to the Commission in respect of establishing the conditions for granting voluntary coupled support, as well as rules on its consistency with other Union measures and on the cumulation of support.
- (51) In order to ensure against any risk of disruption to production in the cotton producing regions, a part of support to the cotton sector under Regulation (EC) No 73/2009 continued to be linked to the cultivation of cotton through a crop-specific payment per eligible hectare, taking into account all relevant factors. This situation should be maintained in accordance with the objectives set out in Protocol No 4 on cotton attached to the 1979 Act of Accession.
- (52) In order to ensure the efficient application and management of the crop-specific payment for cotton, the power to adopt certain acts should be delegated to the Commission in respect of establishing rules and conditions for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton; rules on the conditions for the granting of that payment, on the eligibility requirements and the agronomic practices; criteria for the approval of inter-branch organisations; obligations for producers; and rules governing the situation where the approved inter-branch organisation does not satisfy those criteria.
- (53) Chapter 2 of Council Regulation (EC) No 637/2008 ⁽¹⁾ required each cotton producing Member State to submit to the Commission either every four years and for the first time by 1 January 2009 a draft four-year restructuring programme, or by 31 December 2009 a single draft modified eight-year restructuring programme.

Experience has shown that the restructuring of the cotton sector would be better served through other measures, including those under rural development programming financed under Regulation (EU) No 1305/2013. Such measures would also allow for a greater co-ordination with measures in other sectors. The acquired rights and legitimate expectations of undertakings already involved in restructuring programmes should, however, be respected. Therefore, the ongoing programmes of four or eight years should be allowed to run their course, with no possibility of extension. Funds available from the four-year programmes could then be integrated into the available Union funds for measures under rural development from 2014. Given the programming period, funds available after the end of the eight-year programmes would not be useful in rural development programmes in 2018, and could therefore be more usefully transferred to support schemes under this Regulation, as already provided for in Regulation (EC) No 637/2008. Regulation (EC) No 637/2008 will therefore become obsolete from 1 January 2014 or 1 January 2018 as regards Member States which have, respectively, four or eight-year programmes and should therefore be repealed.

- (54) Member States should be allowed to establish a simple and specific scheme for small farmers in order to reduce the administrative costs linked to the management and control of direct support. For that purpose, Member States should be allowed to establish either a lump-sum payment that replaces all direct payments, or a payment based on the amount due to the farmers each year. Rules simplifying formalities should be introduced by reducing, inter alia, the obligations imposed on small farmers, such as those related to the application for support, to agricultural practices beneficial for the climate and the environment, to cross-compliance and to controls as laid down in Regulation (EU) No 1306/2013 without jeopardising the achievement of the overall objectives of the reform, it being understood that Union legislation as referred to in Annex II to Regulation (EU) No 1306/2013 applies to small farmers. The objective of that scheme should be to support the existing agricultural structure of small farms in the Union without countering the development towards more competitive structures. For that reason, access to the scheme should, in principle, be limited to existing holdings. Participation of farmers in the scheme should be optional. However, in order to further increase the impact of the scheme in terms of simplification, Member States should be allowed to include certain farmers in the scheme automatically, subject to the possibility for them to opt-out.
- (55) In order to ensure legal certainty, the power to adopt certain acts should be delegated to the Commission in respect of establishing conditions for participation in the small farmers scheme if the situation of the participating farmer changes.

⁽¹⁾ Council Regulation (EC) No 637/2008 of 23 June 2008 amending Regulation (EC) No 1782/2003 and establishing national restructuring programmes for the cotton sector (OJ L 178, 5.7.2008, p. 1).

- (56) In the interest of simplification and in order to take into account the specific situation of the outermost regions, direct payments in those regions should be managed within the support programmes established by Regulation (EU) No 228/2013. As a consequence, provisions in this Regulation relating to the basic payment and related payments, to coupled support and to the small farmers scheme should not apply to those regions.
- (57) Notifications are needed from Member States for the purpose of applying this Regulation, and for the purpose of monitoring, analysing and managing direct payments. In order to ensure the correct application of the rules set out in this Regulation and to make such notifications fast, efficient, accurate, cost-effective and compatible with the protection of personal data, the power to adopt certain acts should be delegated to the Commission in respect of establishing the necessary measures regarding notifications to be made by Member States to the Commission or for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments and for complying with requirements laid down in international agreements, including notification requirements under those agreements and in respect of further rules on the nature and type of the information to be notified, the categories of data to be processed and maximum period of retention, the access rights to the information or information systems and the conditions of publication of the information.
- (58) Personal data collected for the purposes of the application of direct payments should be processed in a way that is compatible with those purposes. It should also be made anonymous, be aggregated when processed for monitoring or evaluation purposes, and be protected in accordance with Union law concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council⁽¹⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council⁽²⁾. Data subjects should be informed of such processing and of their data protection rights.
- (59) The European Data Protection Supervisor was consulted and delivered an opinion on 14 December 2011⁽³⁾.
- (60) In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of establishing the necessary measures to protect any acquired rights and legitimate expectations of farmers.
- (61) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should be conferred on the Commission in respect of: setting the amount to be included in the special national de-mining reserve for Croatia; fixing the annual national ceiling for the basic payment scheme; adopting rules on applications for allocation of payment entitlements; adopting measures regarding the reversion of non-activated payment entitlements to the national reserve; adopting modalities of the notification of transfer of payment entitlements to the national authorities and the deadlines within which such notifications are to take place; fixing the annual national ceiling for the single area payment scheme; adopting rules on applications for allocation of payment entitlements submitted in the year of allocation of payment entitlements where Member States change to the basic payment scheme; fixing annual ceilings for the redistributive payment. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (62) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should also be conferred on the Commission in respect of: adopting rules on the procedure, including on the timetables for their submission, for the Member States' notifications and the Commission assessment as regards equivalent practices; adopting certain limits within which the obligation to maintain permanent grassland is considered to be being complied with; setting out the annual ceiling for the payment for agricultural practices beneficial for the climate and the environment; setting out the annual ceiling for the payment for areas with natural constraints; setting out the annual ceiling for the payment for young farmers. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (63) In order to ensure uniform conditions for the implementation of this Regulation and to avoid unfair competition or discrimination between farmers, implementing powers should also be conferred on the Commission in respect of: setting out the annual ceilings for the voluntary coupled support; adopting rules on the procedure for the assessment and approval of decisions in the framework of the voluntary coupled support; adopting rules on the authorisation procedure and on the notifications to the producers related to the authorisation of land and varieties for the purposes of the crop-specific payment for cotton; adopting rules on the calculation of the reduction of the amount of the crop-specific payment for cotton; adopting rules concerning general notification requirements and methods; and adopting necessary and
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- ⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).
- ⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).
- ⁽³⁾ OJ C 35, 9.2.2012, p. 1.

justifiable measures to resolve specific problems in an emergency. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

- (64) In order to solve urgent problems occurring in one or more Member States while ensuring the continuity of the direct payments system, the Commission should adopt immediately applicable implementing acts where, in duly justified cases, extraordinary circumstances affect the granting of support and jeopardise the effective implementation of the payments under the support schemes listed in this Regulation.
- (65) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the links between this Regulation and the other instruments of the CAP, the disparities between the various rural areas and the limited financial resources of the Member States in an enlarged Union, be better achieved at Union level through the multiannual guarantee of Union financing and by concentrating on clearly identified priorities, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). 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 those objectives.
- (66) Given that Regulation (EC) No 73/2009 is to continue to apply in 2014, this Regulation should apply in general from 1 January 2015. However, the provisions of this Regulation on flexibility between pillars provide for the possibility for Member States to take decisions and notify them to the Commission by 31 December 2013. In addition, some other provisions of this Regulation require action to be taken in 2014. Those provisions should, therefore, apply from the entry into force of this Regulation.
- (67) Due to the urgency of preparing the smooth implementation of the measures envisaged, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation establishes:

- (a) common rules on payments granted directly to farmers under the support schemes listed in Annex I ("direct payments");

(b) specific rules concerning:

- (i) a basic payment for farmers ("the basic payment scheme" and a transitional simplified scheme, "the single area payment scheme");
- (ii) a voluntary transitional national aid for farmers;
- (iii) a voluntary redistributive payment;
- (iv) a payment for farmers observing agricultural practices beneficial for the climate and the environment;
- (v) a voluntary payment for farmers in areas with natural constraints;
- (vi) a payment for young farmers commencing their agricultural activity;
- (vii) a voluntary coupled support scheme;
- (viii) a crop-specific payment for cotton;
- (ix) a voluntary simplified scheme for small farmers;
- (x) a framework within which Bulgaria, Croatia and Romania may complement direct payments.

Article 2

Amendment of Annex I

In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 amending the list of support schemes set out in Annex I to the extent necessary to take account of any new legislative acts on support schemes which may be adopted after the adoption of this Regulation.

Article 3

Application to the outermost regions and the smaller Aegean islands

Article 11 shall not apply to the regions of the Union referred to in Article 349 TFEU ("the outermost regions") and to the direct payments granted in the smaller Aegean islands in accordance with Regulation (EU) No 229/2013.

Titles III, IV and V of this Regulation shall not apply to the outermost regions.

Article 4

Definitions and related provisions

1. For the purposes of this Regulation, the following definitions shall apply:

- (a) "farmer" means a natural or legal person, or a group of natural or legal persons, regardless of the legal status granted to such group and its members by national law, whose holding is situated within the territorial scope of the Treaties, as defined in Article 52 TEU in conjunction with Articles 349 and 355 TFEU, and who exercises an agricultural activity;
- (b) "holding" means all the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State;
- (c) "agricultural activity" means:
- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
 - (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
 - (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;
- (d) "agricultural products" means the products, with the exception of fishery products, listed in Annex I to the Treaties as well as cotton;
- (e) "agricultural area" means any area taken up by arable land, permanent grassland and permanent pasture, or permanent crops;
- (f) "arable land" means land cultivated for crop production or areas available for crop production but lying fallow, including areas set aside in accordance with Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, with Article 39 of Regulation (EC) No 1698/2005 and with Article 28 of Regulation (EU) No 1305/2013, irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;
- (g) "permanent crops" means non-rotational crops other than permanent grassland and permanent pasture that occupy the land for five years or more and yield repeated harvests, including nurseries and short rotation coppice;
- (h) "permanent grassland and permanent pasture" (together referred to as "permanent grassland") means land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more; it may include other species such as shrubs and/or trees which can be grazed provided that the grasses and other herbaceous forage remain predominant as well as, where Member States so decide, land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas;
- (i) "grasses or other herbaceous forage" means all herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State, whether or not used for grazing animals;
- (j) "nurseries" means the following areas of young ligneous (woody) plants grown in the open air for subsequent transplantation:
- vine and root-stock nurseries,
 - fruit tree and berries nurseries,
 - ornamental nurseries,
 - commercial nurseries of forest trees excluding those for the holding's own requirements grown within woodland,
 - nurseries of trees and bushes for planting in gardens, parks, at the roadside and on embankments (e.g. hedgerow plants, rose trees and other ornamental bushes, ornamental conifers), including in all cases their stocks and young seedlings;
- (k) "short rotation coppice" means areas planted with tree species of CN code 0602 90 41 to be defined by Member States that consist of woody, perennial crops, the rootstock or stools of which remain in the ground after harvesting, with new shoots emerging in the following season and with a maximum harvest cycle to be determined by the Member States;
- (l) "sale" means the sale or any other definitive transfer of ownership of land or payment entitlements; it does not include the sale of land where land is transferred to public authorities or for use in the public interest and where the transfer is carried out for non-agricultural purposes;
- (m) "lease" means a rental agreement or similar temporary transaction;

(n) "transfer" means the lease or sale or actual inheritance or anticipated inheritance of land or payment entitlements or any other definitive transfer thereof; it does not cover the reversion of entitlements upon expiry of a lease.

2. Member States shall:

- (a) establish criteria to be met by farmers in order to fulfil the obligation to maintain an agricultural area in a state suitable for grazing or cultivation, as referred to in point (c)(ii) of paragraph 1;
- (b) where applicable in a Member State, define the minimum activity to be carried out on agricultural areas naturally kept in a state suitable for grazing or cultivation, as referred to in point (c)(iii) of paragraph 1;
- (c) define the tree species qualifying for short rotation coppice and determine the maximum harvest cycle in respect of those tree species, as referred to in point (k) of paragraph 1.

Member States may decide that land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas is to be considered to be permanent grassland, as referred to in point (h) of paragraph 1.

3. In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 establishing:

- (a) the framework within which Member States are to establish the criteria to be met by farmers in order to fulfil the obligation to maintain an agricultural area in a state suitable for grazing or cultivation, as referred to in point (c)(ii) of paragraph 1;
- (b) the framework within which Member States shall define the minimum activity to be carried out on agricultural areas naturally kept in a state suitable for grazing or cultivation, as referred to in point (c)(iii) of paragraph 1;
- (c) the criteria to determine the predominance of grasses and other herbaceous forage and the criteria to determine the established local practices referred to in point (h) of paragraph 1.

TITLE II

GENERAL PROVISIONS ON DIRECT PAYMENTS

CHAPTER 1

Common rules on direct payments

Article 5

General common agricultural policy provisions

Regulation (EU) No 1306/2013 and the provisions adopted pursuant thereto shall apply to the schemes provided for in this Regulation.

Article 6

National ceilings

1. For each Member State and for each year, the national ceiling comprising the total value of all allocated payment entitlements, of the national reserve or the regional reserves and of the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53 shall be as set out in Annex II.

Where a Member State makes use of the option provided for in Article 22(2), the national ceiling set out in Annex II for that Member State for the respective year may be exceeded by the amount calculated in accordance with that paragraph.

2. By way of derogation from paragraph 1, for each Member State applying the single area payment scheme and for each year, the national ceiling, comprising the ceilings fixed in accordance with Articles 36, 42, 47, 49, 51 and 53, shall be as set out in Annex II.

3. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions to be taken by Member States in accordance with Article 14 and those resulting from the application of Article 20(2), the Commission shall be empowered to adopt delegated acts in accordance with Article 70 adapting the national ceilings set out in Annex II.

Article 7

Net ceilings

1. Without prejudice to Article 8, the total amount of direct payments which may be granted in a Member State pursuant to Titles III, IV and V in respect of a calendar year, after application of Article 11, shall not be higher than the corresponding ceiling set out in Annex III.

Where the total amount of direct payments to be granted in a Member State would be higher than the ceiling set out in Annex III, that Member State shall make a linear reduction in the amounts of all direct payments with the exception of direct payments granted under Regulation (EU) No 228/2013 and Regulation (EU) No 229/2013.

2. For each Member State and for each calendar year, the estimated product of the reduction of payments referred to in Article 11 (which is reflected by the difference between the national ceiling set out in Annex II, to which is added the amount available in accordance with Article 58, and the net ceiling set out in Annex III) shall be made available as Union support for measures under rural development programming financed under the European Agricultural Fund for Rural Development (EAFRD) as specified in Regulation (EU) No 1305/2013.

3. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions taken by Member States pursuant to Article 14, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 adapting the ceilings set out in Annex III.

*Article 8***Financial discipline**

1. The adjustment rate determined in accordance with Article 26 of Regulation (EU) No 1306/2013 shall only apply to direct payments in excess of EUR 2 000 to be granted to farmers in the corresponding calendar year.

2. As a result of the gradual introduction of direct payments provided for in Article 16, paragraph 1 of this Article shall apply to Bulgaria and Romania from 1 January 2016.

As a result of the gradual introduction of direct payments provided for in Article 17, paragraph 1 of this Article shall apply to Croatia from 1 January 2022.

3. In order to ensure the correct application of the adjustments of direct payments with respect to financial discipline, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules on the basis for calculation of reductions to be applied by Member States to farmers pursuant to paragraph 1 of this Article.

4. In the case of a legal person, or a group of natural or legal persons, Member States may apply the adjustment rate referred to in paragraph 1 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

*Article 9***Active farmer**

1. No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, whose agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and who do not carry out on those areas the minimum activity defined by Member States in accordance with point (b) of Article 4(2).

2. No direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, who operate airports, railway services, waterworks, real estate services, permanent sport and recreational grounds.

Where appropriate, Member States may, on the basis of objective and non-discriminatory criteria, decide to add to the list in the first subparagraph any other similar non-agricultural businesses or activities, and may subsequently decide to withdraw any such additions.

A person or group of persons falling within the scope of the first or second subparagraph shall, however, be regarded as an active farmer if it provides verifiable evidence, in the form that is required by Member States, which demonstrates any of the following:

(a) that the annual amount of direct payments is at least 5 % of the total receipts that it obtained from non-agricultural activities in the most recent fiscal year for which such evidence is available;

(b) that its agricultural activities are not insignificant;

(c) that its principal business or company objects consist of exercising an agricultural activity.

3. In addition to paragraphs 1 and 2, Member States may decide, on the basis of objective and non-discriminatory criteria, that no direct payments are to be granted to natural or legal persons, or to groups of natural or legal persons:

(a) whose agricultural activities form only an insignificant part of their overall economic activities; and/or

(b) whose principal activity or company objects do not consist of exercising an agricultural activity.

4. Paragraphs 2 and 3 shall not apply to farmers who only received direct payments not exceeding a certain amount for the previous year. Such amount shall be decided by Member States on the basis of objective criteria such as their national or regional characteristics, and shall not be higher than EUR 5 000.

5. In order to guarantee the protection of the rights of farmers, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

(a) criteria for determining the cases where a farmer's agricultural area is to be considered to be mainly an area naturally kept in a state suitable for grazing or cultivation;

(b) criteria for establishing the distinction between receipts resulting from agricultural and non-agricultural activities;

(c) criteria for establishing the amounts of direct payments referred to in paragraphs 2 and 4, especially concerning direct payments in the first year of allocation of payment entitlements where the value of the payment entitlements is not yet definitively established, as well as concerning direct payments for new farmers;

(d) criteria that farmers are to meet in order to prove for the purposes of paragraphs 2 and 3 that their agricultural activities are not insignificant and that their principal business or company objects consist of exercising an agricultural activity.

6. Member States shall notify the Commission by 1 August 2014 of any decision referred to in paragraphs 2, 3 or 4 and, in the case of amendments thereto, within two weeks of the date on which any decision to amend was taken.

Article 10

Minimum requirements for receiving direct payments

1. Member States shall decide in which one of the following cases not to grant direct payments to a farmer:

(a) where the total amount of direct payments claimed or due to be granted before the application of Article 63 of Regulation (EU) No 1306/2013 in a given calendar year is less than EUR 100;

(b) where the eligible area of the holding for which direct payments are claimed or due to be granted before the application of Article 63 of Regulation (EU) No 1306/2013 is less than one hectare.

2. In order to take account of the structure of their agricultural economies, Member States may adjust the thresholds set out in points (a) and (b) of paragraph 1 within the limits set out in Annex IV.

3. Where a Member State has decided to apply an area threshold pursuant to point (b) of paragraph 1, it shall nevertheless apply point (a) of that paragraph to those farmers receiving the animal-related coupled support referred to in Title IV who hold fewer hectares than the area threshold.

4. The Member States concerned may decide not to apply paragraph 1 to the outermost regions and to the smaller Aegean Islands.

5. In Bulgaria and Romania, for the year 2015, the amount claimed or due to be granted as referred to in point (a) of paragraph 1 shall be calculated on the basis of the relevant amount set out in point A of Annex V.

In Croatia, for the years 2015-2021, the amount claimed or due to be granted as referred to in point (a) of paragraph 1 shall be calculated on the basis of the amount set out in point A of Annex VI.

Article 11

Reduction of payments

1. Member States shall reduce the amount of direct payments to be granted to a farmer pursuant to Chapter 1 of Title III for a given calendar year by at least 5 % for the part of the amount exceeding EUR 150 000.

2. Before applying paragraph 1, Member States may subtract the salaries linked to an agricultural activity actually paid and declared by the farmer in the previous calendar year, including taxes and social contributions related to employment, from the amount of direct payments to be granted to a farmer pursuant to Chapter 1 of Title III in a given calendar year. Where no data is available on the salaries actually paid and declared by the farmer in the previous calendar year, the most recent data available shall be used.

3. Where a Member State decides to grant a redistributive payment to farmers pursuant to Chapter 2 of Title III and to use more than 5 % of the annual national ceiling set out in Annex II for that purpose, it may decide not to apply this Article.

Where a Member State decides to grant a redistributive payment to farmers pursuant to Chapter 2 of Title III and the application of the maximum limits set out in Article 41(4) prevents it from using more than 5 % of the annual national ceiling set out in Annex II for that purpose, that Member State may decide not to apply this Article.

4. No advantage by means of avoiding reductions of the payment shall be granted in favour of farmers in respect of whom it is established that they artificially created, after 18 October 2011, the conditions to avoid the effects of this Article.

5. In the case of a legal person, or a group of natural or legal persons, Member States may apply the reduction referred to in paragraph 1 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

6. Member States shall notify the Commission by 1 August 2014 of the decisions taken in accordance with this Article and of any estimated product of reductions for the years 2015 to 2019.

Article 12

Multiple claims

The area corresponding to the number of eligible hectares in respect of which an application for a basic payment has been submitted by a farmer pursuant to Chapter 1 of Title III may be the subject of an application for any other direct payment, as well as for any other aid not covered by this Regulation, save as explicitly provided otherwise in this Regulation.

*Article 13***State aid**

By way of derogation from Article 211(1) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽¹⁾, Articles 107, 108 and 109 TFEU shall not apply to payments made by Member States in conformity with this Regulation.

*Article 14***Flexibility between pillars**

1. By 31 December 2013, Member States may decide to make available, as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No 1305/2013, up to 15 % of their annual national ceilings for calendar year 2014 set out in Annex VIII to Regulation (EC) No 73/2009 and of their annual national ceilings for calendar years 2015 to 2019 set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first subparagraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage referred to in that subparagraph, which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of calendar year 2014 may, by 1 August 2014, take that decision in respect of calendar years 2015 to 2019. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decisions referred to in this paragraph with effect from calendar year 2018. Any decisions based on such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of any decision based on such review by 1 August 2017.

2. By 31 December 2013, Member States which do not take the decision referred to in paragraph 1 may decide to make available as direct payments up to 15 % or, in the case of Bulgaria, Estonia, Spain, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland, Sweden and the United Kingdom, up to 25 % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020, as specified in Regulation (EU) No 1305/2013. As a result, the corresponding amount shall no longer be available for support measures under rural development programming.

⁽¹⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1601/96, (EC) No 1037/2001 and (EC) No 1234/2007 (See page 671 of this Official Journal).

The decision referred to in the first subparagraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage referred to in that subparagraph, which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of financial year 2015 may, by 1 August 2014, take that decision in respect of financial years 2016 to 2020. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decisions referred to in this paragraph with effect for financial years 2019 and 2020. Any decisions based on such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of any decision based on such review by 1 August 2017.

*Article 15***Review**

Support schemes listed in Annex I shall apply without prejudice to a possible review at any time in the light of economic developments and the budgetary situation. That review may lead to the adoption of legislative acts, delegated acts under Article 290 TFEU or implementing acts under Article 291 TFEU.

CHAPTER 2

Provisions applying to Bulgaria, Croatia and Romania*Article 16***Gradual introduction of direct payments in Bulgaria and Romania**

For Bulgaria and Romania, the ceilings fixed in accordance with Articles 42, 47, 49, 51, 53 and 65 shall, for 2015, be established on the basis of the amount set out in point A of Annex V.

*Article 17***Gradual introduction of direct payments in Croatia**

In Croatia, direct payments shall be introduced in accordance with the following schedule of increments expressed as a percentage of the corresponding level of the direct payments as applied from 2022:

25 % in 2013,

30 % in 2014,

35 % in 2015,

40 % in 2016,

50 % in 2017,

60 % in 2018,

70 % in 2019,

80 % in 2020,

90 % in 2021,

100 % from 2022.

Article 18

Complementary national direct payments and direct payments in Bulgaria and Romania

1. In 2015, Bulgaria and Romania may use national direct payments in order to complement payments granted under the basic payment scheme referred to in Sections 1, 2 and 3 of Chapter 1 of Title III. The total amount of those payments shall not exceed the relevant amount set out in point B of Annex V.

2. In 2015, Bulgaria may use national direct payments in order to complement payments granted under the crop-specific payment for cotton referred to in Chapter 2 of Title IV. The total amount of those payments shall not exceed the amount set out in point C of Annex V.

3. Complementary national direct payments shall be granted in accordance with objective criteria and in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition.

Article 19

Complementary national direct payments for Croatia

1. Subject to authorisation by the Commission, Croatia may complement any of the support schemes listed in Annex I, where relevant.

2. The amount of complementary national direct payments which may be granted in a given year and for a given support scheme shall be limited by a specific financial envelope. This envelope shall be established as the difference between:

- (a) the amount of direct support available per support scheme concerned after the full introduction of direct payments in accordance with Article 17 for the calendar year 2022, and
- (b) the amount of direct support available per support scheme concerned after the application of the schedule of increments in accordance with Article 17 for the calendar year concerned.

3. The total amount of complementary national direct payments granted shall not be higher than the ceiling set out in point B of Annex VI for a corresponding calendar year.

4. Croatia may decide, on the basis of objective criteria and after authorisation by the Commission, on the amounts of complementary national direct payments to be granted.

5. The Commission shall adopt implementing acts authorising the payments under this Article, specifying the

relevant support schemes and defining the level up to which the complementary national direct payments may be paid.

As regards complementary national direct payments intended to complement the voluntary coupled support referred to in Chapter 1 of Title IV, the implementing acts shall also specify the specific types of farming or the specific agricultural sectors referred to in Article 52(3) to which the complementary national direct payments may relate.

Those implementing acts shall be adopted without applying the procedure referred to in Article 71(2) or (3).

6. The eligibility conditions for complementary national direct payments for Croatia shall be identical to those for support under corresponding support schemes as laid down in this Regulation.

7. Complementary national direct payments for Croatia shall be subject to any adjustments which may be rendered necessary by developments in the CAP. They shall be granted in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and to avoid distortions of the market and of competition.

8. Croatia shall submit a report providing information on the measures for the implementation of the complementary national direct payments by 30 June of the year following their implementation. The report shall cover at least the following:

- (a) any changes in the situation affecting the complementary national direct payments;
- (b) for each complementary national direct payment, the numbers of beneficiaries and the total amount of complementary national direct payment granted, as well as the hectares and the number of animals or other units for which that complementary national direct payment has been granted;
- (c) a report on control measures applied in relation to the complementary national direct payments granted.

Article 20

Special national de-mining reserve for Croatia

1. From 2015 onwards, Croatia shall notify the Commission by 31 January of each year of the areas which have been identified in accordance with Article 57a(10) of Regulation (EC) No 73/2009 and which were returned to use for agricultural activities in the previous calendar year.

Croatia shall also notify the Commission of the number of payment entitlements available to farmers on 31 December of the previous calendar year, as well as the amount remained unspent in the special national de-mining reserve on that same date.

Where applicable, the notifications provided in the first and second subparagraphs shall be made per region as defined in accordance with Article 23(1) of this Regulation.

2. When adapting Annex II pursuant to Article 6(3), the Commission shall calculate on a yearly basis the amount to be added to the amounts set for Croatia in that Annex in order to finance the support to be granted under the schemes listed in Annex I for the areas referred to in paragraph 1 of this Article. This amount shall be calculated on the basis of the data notified by Croatia in accordance with paragraph 1 of this Article and the estimated average direct payments per hectare in Croatia for the year concerned.

The maximum amount to be added in accordance with the first subparagraph, on the basis of all the areas notified by Croatia in accordance with paragraph 1 of this Article until 2022, shall be EUR 9 600 000 and shall be subject to the schedule of introduction of direct payments in accordance with Article 17. The resulting maximum annual amounts are set out in Annex VII.

3. The Commission shall adopt implementing acts setting the share of the amount to be added in accordance with paragraph 2 which Croatia shall include in the special national de-mining reserve in order to allocate payment entitlements for the areas referred to in paragraph 1. That share shall be calculated on the basis of the ratio between the ceiling for the basic payment scheme and the national ceiling set out in Annex II before the national ceiling's increase in accordance with paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

4. For the years 2015 to 2022, Croatia shall use the special national de-mining reserve to allocate payment entitlements to farmers on the basis of de-mined land declared by the farmers in the year in question where:

- (a) such land consists of eligible hectares within the meaning of Article 32(2) to (5);
- (b) the land in question was returned to use for agricultural activities during the previous calendar year; and
- (c) the land has been notified to the Commission in accordance with paragraph 1 of this Article.

5. The value of the payment entitlements established under this Article shall be the national or regional average value of payment entitlements in the year of allocation within the limits of the amount available in the special national de-mining reserve.

6. In order to take account of the consequences of the return of de-mined land to use for agricultural activities as notified by Croatia in accordance with this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 adapting the amounts set out in Annex VI.

TITLE III

BASIC PAYMENT SCHEME, SINGLE AREA PAYMENT SCHEME AND RELATED PAYMENTS

CHAPTER 1

Basic payment scheme and single area payment scheme

Section 1

Setting up of the basic payment scheme

Article 21

Payment entitlements

1. Support under the basic payment scheme shall be available to farmers:

- (a) who obtain payment entitlements under this Regulation through allocation pursuant to Article 20(4), through first allocation pursuant to Article 24 or Article 39, through allocation from the national reserve or regional reserves pursuant to Article 30 or through transfer pursuant to Article 34; or
- (b) who comply with Article 9 and hold owned or leased-in payment entitlements in a Member State which has decided, in accordance with paragraph 3, to keep its existing payment entitlements.

2. Payment entitlements obtained under the single payment scheme in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 shall expire on 31 December 2014.

3. By way of derogation from paragraph 2, Member States which established the single payment scheme in accordance with Section I of Chapter 5 of Title III or Chapter 6 of Title III of Regulation (EC) No 1782/2003 or Chapter 3 of Title III of Regulation (EC) No 73/2009 may, by 1 August 2014, decide to keep the existing payment entitlements. They shall notify any such decision to the Commission by that date.

4. As regards Member States which take the decision referred to in paragraph 3, when the number of owned or leased-in payment entitlements established in accordance with Regulation (EC) No 1782/2003 and with Regulation (EC) No 73/2009 which a farmer holds on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 exceeds the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for 2015, and which are at his disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending such an aid application, the number of payment entitlements exceeding the number of eligible hectares shall expire on the latter date.

*Article 22***Basic payment scheme ceiling**

1. The Commission shall adopt implementing acts setting, for each Member State, the annual national ceiling for the basic payment scheme by deducting from the annual national ceiling set out in Annex II the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

2. For each Member State, the amount calculated in accordance with the paragraph 1 of this Article may be increased by a maximum of 3 % of the relevant annual national ceiling set out in Annex II after deduction of the amount resulting from the application of Article 47(1) for the relevant year. When a Member State applies such an increase, that increase shall be taken into account by the Commission when setting the annual national ceiling for the basic payment scheme pursuant to paragraph 1 of this Article. For that purpose, Member States shall notify the Commission by 1 August 2014 of the annual percentages by which the amount calculated pursuant to paragraph 1 of this Article is to be increased.

3. Member States may review their decision referred to in paragraph 2 on an annual basis and shall notify the Commission of any decision based on such review by 1 August of the year preceding its application.

4. For each Member State and each year, the total value of all payment entitlements and the national reserve or the regional reserves shall equal the respective annual national ceiling set by the Commission pursuant to paragraph 1.

5. If the ceiling for a Member State set by the Commission pursuant to paragraph 1 is different from that of the previous year as a result of any decision taken by that Member State in accordance with paragraph 3 of this Article, the third and fourth subparagraphs of Article 14(1), the third and fourth subparagraphs of Article 14(2), Article 42(1), the second subparagraph of Article 49(1), the second subparagraph of Article 51(1), or Article 53, that Member State shall linearly reduce or increase the value of all payment entitlements in order to ensure compliance with paragraph 4 of this Article.

*Article 23***Regional allocation of the national ceilings**

1. Member States may decide, by 1 August 2014, to apply the basic payment scheme at regional level. In such cases, they shall define the regions in accordance with objective and non-discriminatory criteria such as their agronomic and socio-economic characteristics, their regional agricultural potential, or their institutional or administrative structure.

Member States applying Article 36 may take the decision referred to in the first subparagraph by 1 August of the year preceding the first year of implementation of the basic payment scheme.

2. Member States shall divide the annual national ceiling for the basic payment scheme referred to in Article 22(1) between the regions in accordance with objective and non-discriminatory criteria.

Member States not applying Article 30(2) shall make that division after applying the linear reduction provided for in Article 30(1).

3. Member States may decide that the regional ceilings shall be subject to annual progressive modifications in accordance with pre-established annual steps and objective and non-discriminatory criteria such as agricultural potential or environmental criteria.

4. To the extent necessary to respect the applicable regional ceilings determined in accordance with paragraph 2 or 3, Member States shall make a linear reduction or increase in the value of the payment entitlements in each of the relevant regions.

5. Member States applying paragraph 1 may decide to cease the application of the basic payment scheme at regional level from a date to be set by them.

6. Member States applying the first subparagraph of paragraph 1 shall notify the Commission of the decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August 2014.

Member States applying the second subparagraph of paragraph 1 shall notify the Commission of any decision referred to in that subparagraph and of the measures taken for the application of paragraphs 2 and 3 by 1 August of the relevant year.

Member States applying paragraph 1 shall notify the Commission of any decision referred to in paragraph 5 by 1 August of the year preceding the first year of implementation of that decision.

*Article 24***First allocation of payment entitlements**

1. Payment entitlements shall be allocated to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation provided that:

- (a) they apply for allocation of payment entitlements under the basic payment scheme by the final date for submission of applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, except in case of force majeure or exceptional circumstances; and

(b) they were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

The first subparagraph shall not apply in Member States applying Article 21(3) of this Regulation.

Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph and who:

(a) did not receive payments for 2013 in respect of an aid application as referred to in the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned in accordance with Article 11(2) of Commission Regulation (EC) No 1122/2009 ⁽¹⁾ for the claim year 2013:

(i) in Member States applying the single payment scheme:

— were producing fruits, vegetables, ware potatoes, seed potatoes or ornamental plants, and did so on a minimum area expressed in hectares if the Member State concerned decides to adopt such a requirement, or

— were cultivating vineyards; or

(ii) in Member States applying the single area payment scheme, had only agricultural land that was not in good agricultural condition on 30 June 2003 as provided for in Article 124(1) of Regulation (EC) No 73/2009;

(b) in 2014, are allocated payment entitlements from the national reserve under the single payment scheme pursuant to Article 41 or 57 of Regulation (EC) No 73/2009; or

(c) never held owned or leased-in payment entitlements established under Regulation (EC) No 73/2009 or Regulation (EC) No 1782/2003 and who submit verifiable evidence

⁽¹⁾ Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ L 316, 2.12.2009, p. 65).

that, on the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, they produced, reared or grew agricultural products, including through harvesting, milking, breeding animals and keeping animals for farming purposes. Member States may establish their own additional objective and non-discriminatory eligibility criteria for this category of farmers as regards appropriate skills, experience or education.

2. Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer in 2015 shall be equal to the number of eligible hectares, which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for 2015 and which are at his disposal on a date fixed by the Member State. That date shall be no later than the date fixed in that Member State for amending such an aid application.

3. Member States may apply one or more of the limitations, as set out in paragraphs 4 to 7, on the number of payment entitlements to be allocated under paragraph 2.

4. Member States may decide that the number of payment entitlements to be allocated shall be equal to either the number of eligible hectares which the farmer declared in accordance with Article 34(2) of Regulation (EC) No 73/2009 in 2013, or the number of eligible hectares referred to in paragraph 2 of this Article, whichever is the lowest. For Croatia, the use of this option shall be without prejudice to the allocation of payment entitlements for de-mined hectares in accordance with Article 20(4) of this Regulation.

5. Where the total number of eligible hectares referred to in paragraph 2 of this Article declared in a Member State would result in an increase of more than 35 % of the total number of eligible hectares declared in accordance with Article 35 of Regulation (EC) No 73/2009 in 2009, or in the case of Croatia in 2013, Member States may limit the number of payment entitlements to be allocated in 2015 to a minimum of either 135 % or 145 % of the total number of eligible hectares declared in 2009, or, in the case of Croatia, of the total number of eligible hectares declared in 2013, in accordance with Article 35 of Regulation (EC) No 73/2009.

When using this option, Member States shall allocate a reduced number of payment entitlements to farmers. That number shall be calculated by applying a proportional reduction to the additional number of eligible hectares declared by each farmer in 2015 compared to the number of eligible hectares within the meaning of Article 34(2) of Regulation (EC) No 73/2009 that that farmer declared in his aid application in 2011 or, in the case of Croatia, in 2013, without prejudice to the de-mined hectares for which payment entitlements are to be allocated in accordance with Article 20(4) of this Regulation.

6. Member States may decide to apply, for the purposes of establishing the number of payment entitlements to be allocated to a farmer, a reduction coefficient to those eligible hectares referred to in paragraph 2 which consist of permanent grassland located in areas with difficult climate conditions, especially due to their altitude and other natural constraints such as poor soil quality, steepness and water supply.

7. Member States may decide that the number of payment entitlements to be allocated to a farmer shall be equal to the number of eligible hectares referred to in paragraph 2 of this Article which were not hectares of vineyards on the date fixed by the Member State in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013 or hectares of arable land under permanent greenhouses.

8. In the case of the sale or lease of their holding or part of it, natural or legal persons complying with paragraph 1 of this Article may, by contract signed before the final date for submitting applications in 2015 to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013, transfer the right to receive payment entitlements in accordance with paragraph 1 of this Article to one or more farmers provided that the latter comply with the conditions laid down in Article 9 of this Regulation.

9. A Member State may decide to fix a minimum size per holding, expressed in eligible hectares, in respect of which the farmer may apply for an allocation of payment entitlements. That minimum size shall not exceed the threshold set out in point (b) of Article 10(1) in conjunction with paragraph 2 of that Article.

10. Member States shall, where relevant, notify the Commission of the decisions referred to in this Article by 1 August 2014.

11. The Commission shall adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established and where that allocation is affected by specific circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 25

Value of payment entitlements and convergence

1. In 2015, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the number of payment entitlements in 2015 at national or regional level, excluding those allocated from the national reserve or regional reserves in 2015.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the national ceiling for 2015 set out in Annex II. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2. By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in 2015, excluding those allocated from the national reserve or regional reserves in 2015, for each relevant year on the basis of their initial unit value as calculated in accordance with Article 26.

3. From claim year 2019 at the latest, all payment entitlements in a Member State or, where Article 23 is applied, in a region shall have a uniform unit value.

4. By way of derogation from paragraph 3, a Member State may decide that payment entitlements with an initial unit value as calculated in accordance with Article 26 that is lower than 90 % of the national or regional unit value in 2019 shall, for claim year 2019 at the latest, have their unit value increased by at least one third of the difference between their initial unit value and 90 % of the national or regional unit value in 2019.

Member States may decide to set the percentage referred to in the first subparagraph at a level higher than 90 % but not above 100 %.

In addition, Member States shall provide that, at the latest for claim year 2019, no payment entitlement shall have a unit value lower than 60 % of the national or regional unit value in 2019, unless this would, in Member States applying the threshold referred to in paragraph 7, result in a maximum decrease exceeding that threshold. In such cases, the minimum unit value shall be set at a level necessary to respect that threshold.

5. The national or regional unit value in 2019 referred to in the paragraph 4 shall be calculated by dividing a fixed percentage of the national ceiling set out in Annex II, or of the regional ceiling, for calendar year 2019 by the number of payment entitlements in 2015 in the Member State or region concerned, excluding those allocated from the national reserve or regional reserves in 2015. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the national ceiling set out in Annex II, or the regional ceiling, for 2015.

6. The regional ceilings referred to in the paragraph 5 shall be calculated by applying a fixed percentage to the national ceiling set out in Annex II for the year 2019. That fixed percentage shall be calculated by dividing the respective regional ceilings established in accordance with Article 23(2) for the year 2015 by the national ceiling to be set in accordance with Article 22(1) for the year 2015, after applying the linear reduction provided for in Article 30(1) where the second subparagraph of Article 23(2) applies.

7. In order to finance the increases in the value of payment entitlements referred to in paragraph 4, where payment entitlements have an initial unit value higher than the national or regional unit value in 2019, the difference between their initial unit value and the national or regional unit value in 2019 shall be decreased on the basis of objective and non-discriminative criteria to be determined by Member States. Such criteria may include the fixing of a maximum decrease of the initial unit value of 30 %.

8. When applying paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as calculated in accordance with Article 26 to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall be made in equal steps starting from 2015.

In order to ensure compliance with the fixed percentage referred to in paragraph 1 of this Article for each year, the value of the payment entitlements with an initial unit value that is higher than the national or regional unit value in 2019 shall be adjusted.

9. By way of derogation from paragraph 8 of this Article, where Member States which, in accordance with Article 21(3), decide to keep their existing entitlements apply paragraph 2 of this Article, the transition from the initial unit value of payment entitlements as established in accordance with Article 26(5) to their final unit value in 2019 as established in accordance with paragraph 3 or paragraphs 4 to 7 of this Article shall, where applicable, be made by applying the steps decided nationally in accordance with Article 63(3) of Regulation (EC) No 1782/2003.

In order to ensure compliance with the fixed percentage referred to in paragraph 1 of this Article for each year, the value of all payment entitlements shall be linearly adjusted.

10. In 2015, Member States shall inform farmers of the value of their payment entitlements as calculated in accordance with this Article and Articles 26 and 27 for each year of the period covered by this Regulation.

Article 26

Calculation of the initial unit value

1. The initial unit value of payment entitlements referred to in Article 25(2) in Member States which apply the single payment scheme in calendar year 2014 and which have not decided to keep their existing payment entitlements in

accordance with Article 21(3) shall be set in accordance with either of the methods set out in paragraphs 2 or 3.

2. A fixed percentage of the payments the farmer received for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

3. A fixed percentage of the value of the entitlements, including special entitlements, which the farmer held on the date of submission of his application for 2014 under the single payment scheme, in accordance with Regulation (EC) No 73/2009, shall be divided by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the total value of all entitlements, including special entitlements, in the Member State or region concerned for 2014, under the single payment scheme.

For the purpose of this paragraph, a farmer shall be considered to hold payment entitlements on the date of submission of his application for 2014 where payment entitlements were allocated or definitively transferred to him by that date.

4. Member States which apply the single area payment scheme in calendar year 2014 shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by dividing a fixed percentage of the total value of aid the farmer received for 2014 under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation, by the number of payment entitlements he is allocated in 2015, excluding those allocated from the national reserve or regional reserves in 2015.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the total value of aid granted under the single area payment scheme in accordance with Regulation (EC) No 73/2009 and under Articles 132 and 133a of that Regulation for 2014 in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of that Regulation.

5. Member States which apply the single payment scheme in calendar year 2014 and which, in accordance with Article 21(3) of this Regulation, decide to keep their existing payment entitlements shall calculate the initial unit value of payment entitlements referred to in Article 25(2) of this Regulation by multiplying the unit value of the entitlements by a fixed percentage. That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the year 2015, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 of this Regulation, by the amount of the payments for 2014 under the single payment scheme in the Member State or region concerned, before reductions and exclusions provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009.

6. For the purposes of calculation methods provided for in this Article, provided that the relevant sectors do not receive any voluntary coupled support pursuant to Title IV of this Regulation, Member States may also take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) of Regulation (EC) No 73/2009 and, as regards Member States which applied the single area payment scheme in accordance with Regulation (EC) No 73/2009, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of that Regulation.

Member States which decide to apply the voluntary coupled support pursuant to Title IV of this Regulation may take into account the differences between the level of support granted in calendar year 2014 and the level of support to be granted in accordance with Title IV of this Regulation when applying a calculation method provided for in this Article, provided that:

- (a) the voluntary coupled support pursuant to Title IV of this Regulation is granted to a sector which was granted support in calendar year 2014 pursuant to Article 52, Article 53(1) and points (a) and (b) of Article 68(1) and, for Member States which applied the single area payment scheme, pursuant to point (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009; and
- (b) the amount per unit of the voluntary coupled support is lower than the amount per unit of the support in 2014.

Article 27

Inclusion of the special national de-mining reserve

For Croatia, any reference in Articles 25 and 26 to the national reserve shall be read as including the special national de-mining reserve referred to in Article 20.

In addition, the amount arising from the special national de-mining reserve shall be deducted from the ceilings of the basic payment scheme referred to in the second subparagraph of Article 25(1), in paragraphs 5 and 6 of that Article and in Article 26.

Article 28

Windfall profit

For the purposes of Article 25(4) to (7) and Article 26, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 35 or Article 124(2) of Regulation (EC) No 73/2009 and before the date fixed pursuant to Article 33(1) of this Regulation, the increase, or part of the increase, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

- (a) a minimum duration for the lease; and
- (b) the proportion of the payment received which shall revert to the national reserve or regional reserves.

Article 29

Notifications concerning the value of payment entitlements and convergence

Member States shall notify the Commission of any decision referred to in Articles 25, 26 and 28 by 1 August 2014.

Section 2

National reserve and regional reserves

Article 30

Establishment and use of the national reserve or regional reserves

1. Each Member State shall establish a national reserve. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the basic payment scheme ceiling at national level.

2. By way of derogation from paragraph 1, Member States exercising the option in Article 23(1) may establish regional reserves. In order to do so, Member States shall proceed, in the first year of implementation of the basic payment scheme, to a linear percentage reduction of the relevant basic payment scheme ceiling at regional level referred to in the first subparagraph of Article 23(2).

3. The reduction referred to in paragraphs 1 and 2 shall not be higher than 3 %, unless a higher percentage is required to cover any allocation needs pursuant to paragraph 6 or to points (a) and (b) of paragraph 7 for the year 2015 or, for Member States applying Article 36, for the first year of implementation of the basic payment scheme.

4. Member States shall allocate payment entitlements from their national or regional reserves in accordance with objective criteria and in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition.

5. Payment entitlements referred to in paragraph 4 shall only be allocated to farmers entitled to be granted direct payments in accordance with Article 9.

6. Member States shall use their national or regional reserves to allocate payment entitlements, as a matter of priority, to young farmers and to farmers commencing their agricultural activity.

7. Member States may use their national or regional reserves to:

- (a) allocate payment entitlements to farmers in order to prevent land from being abandoned, including in areas subject to restructuring or development programmes relating to a form of public intervention;
- (b) allocate payment entitlements to farmers in order to compensate them for specific disadvantages;
- (c) allocate payment entitlements to farmers who were prevented from being allocated payment entitlements under this Chapter as a result of force majeure or exceptional circumstances;
- (d) allocate, in cases where they apply Article 21(3) of this Regulation, payment entitlements to farmers whose number of eligible hectares that they declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and that are at their disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending such an aid application, is higher than the number of owned or leased-in payment entitlements established in accordance with Regulation

(EC) No 1782/2003 and with Regulation (EC) No 73/2009 that they hold on the final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013;

(e) linearly increase, on a permanent basis, the value of all payment entitlements under the basic payment scheme at national or regional level if the relevant national or regional reserve exceeds 0,5 % of the annual national or regional ceiling for the basic payment scheme, provided that sufficient amounts remain available for allocations under paragraph 6, under points (a) and (b) of this paragraph and under paragraph 9 of this Article;

(f) cover the yearly needs for payments to be granted in accordance with Article 51(2) and Article 65(1), (2) and (3) of this Regulation.

For the purpose of this paragraph, Member States shall decide on the priorities between the different uses referred to herein.

8. When applying paragraph 6 and points (a), (b) and (d) of paragraph 7, Member States shall fix the value of payment entitlements allocated to farmers at the national or regional average value of payment entitlements in the year of allocation.

The national or regional average value shall be calculated by dividing the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) or Article 23(2) for the year of allocation, excluding the amount of the national reserve or regional reserves and, in the case of Croatia, the special de-mining reserve, by the number of allocated payment entitlements.

Member States shall fix the steps for annual progressive modifications of the value of payment entitlements allocated from the national reserve or regional reserves, taking account of the modifications of the national or regional ceiling for the basic payment scheme set in accordance with, respectively, Article 22(1) and Article 23(2) that result from the variations in the level of the national ceilings set out in Annex II.

9. Where a farmer is entitled to receive payment entitlements or to increase the value of the existing ones by virtue of a definitive court ruling or by virtue of a definitive administrative act of the competent authority of a Member State, the farmer shall receive the number and value of payment entitlements established in that ruling or act at a date to be fixed by the Member State. However, that date shall not be later than the latest date for lodging an application under the basic payment scheme following the date of the court ruling or the administrative act, taking into account the application of Articles 32 and 33.

10. When applying paragraph 6, points (a) and (b) of paragraph 7 and paragraph 9, Member States may either allocate new entitlements or increase the unit value of all of the existing entitlements of a farmer up to the national or regional average value.

11. For the purposes of this Article, the following definitions shall apply:

- (a) 'young farmers' means farmers fulfilling the conditions laid down in Article 50(2) and, where relevant, the conditions referred to in Article 50(3) and (11);
- (b) 'farmers commencing their agricultural activity' means natural or legal persons who, in the five years preceding the start of the agricultural activity, did not have any agricultural activity in their own name and at their own risk or did not have the control of a legal person exercising an agricultural activity. In the case of a legal person, the natural person or persons in control of the legal person must not have had any agricultural activity in their own name and at their own risk or must not have had the control of a legal person exercising an agricultural activity in the five years preceding the start of the agricultural activity by the legal person; Member States may establish their own additional objective and non-discriminative eligibility criteria for this category of farmers as regards appropriate skills, experience or education.

Article 31

Replenishment of the national reserve or regional reserves

1. The national reserve or regional reserves shall be replenished by amounts resulting from:

- (a) payment entitlements not giving right to payments during two consecutive years due to the application of:
 - (i) Article 9,
 - (ii) Article 10(1), or
 - (iii) Article 11(4) of this Regulation;
- (b) a number of payment entitlements equivalent to the total number of payment entitlements which have not been activated by farmers in accordance with Article 32 of this Regulation for a period of two consecutive years, except where their activation has been prevented by force majeure or exceptional circumstances; when establishing the owned or leased-in payment entitlements held by a farmer that shall revert to the national reserve or regional reserves, priority shall be given to those entitlements which have the lowest value;

- (c) payment entitlements voluntarily returned by farmers;
- (d) the application of Article 28 of this Regulation;
- (e) unduly allocated payment entitlements in accordance with Article 63 of Regulation (EU) No 1306/2013;
- (f) a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level where the national reserve or regional reserves are not sufficient to cover the cases referred to in Article 30(9) of this Regulation;
- (g) where Member States consider it necessary, a linear reduction of the value of payment entitlements under the basic payment scheme at national or regional level to cover cases referred to in Article 30(6) of this Regulation;
- (h) the application of Article 34(4) of this Regulation.

2. The Commission shall adopt implementing acts laying down necessary measures regarding the reversion of non-activated payment entitlements to the national reserve or regional reserves. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Section 3

Implementation of the basic payment scheme

Article 32

Activation of payment entitlements

1. Support under the basic payment scheme shall be granted to farmers, by means of declaration in accordance with Article 33(1), upon activation of a payment entitlement per eligible hectare in the Member State where it has been allocated. Activated payment entitlements shall give a right to the annual payment of the amounts fixed therein, without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reductions in accordance with Article 7, Article 51(2) and point (c) of Article 65(2) of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013.

2. For the purposes of this Title, 'eligible hectare' means:

- (a) any agricultural area of the holding, including areas that were not in good agricultural condition on 30 June 2003 in Member States acceding to the Union on 1 May 2004 that opted upon accession to apply the single area payment scheme, that is used for an agricultural activity or, where the area is also used for non-agricultural activities, is predominantly used for agricultural activities; or

(b) any area which gave a right to payments in 2008 under the single payment scheme or the single area payment scheme laid down, respectively, in Titles III and IVA of Regulation (EC) No 1782/2003, and which:

(i) no longer complies with the definition of 'eligible hectare' under point (a) as a result of the implementation of Directive 92/43/EEC, Directive 2000/60/EC and Directive 2009/147/EC;

(ii) for the duration of the relevant commitment by the individual farmer, is afforested pursuant to Article 31 of Regulation (EC) No 1257/1999 or to Article 43 of Regulation (EC) No 1698/2005 or to Article 22 of Regulation (EU) No 1305/2013 or under a national scheme the conditions of which comply with Article 43(1), (2) and (3) of Regulation (EC) No 1698/2005 or Article 22 of Regulation (EU) No 1305/2013; or

(iii) for the duration of the relevant commitment of the individual farmer, is set aside pursuant to Articles 22, 23 and 24 of Regulation (EC) No 1257/1999, to Article 39 of Regulation (EC) No 1698/2005 or to Article 28 of Regulation (EU) No 1305/2013.

3. For the purposes of point (a) of paragraph 2:

(a) where an agricultural area of a holding is also used for non-agricultural activities, that area shall be considered to be used predominantly for agricultural activities provided that those agricultural activities can be exercised without being significantly hampered by the intensity, nature, duration and timing of the non-agricultural activities;

(b) Member States may draw up a list of areas which are predominantly used for non-agricultural activities.

Member States shall establish criteria for the implementation of this paragraph on their territory.

4. Areas shall be considered to be eligible hectares only if they comply with the definition of eligible hectare throughout the calendar year, except in the case of force majeure or exceptional circumstances.

5. For the purposes of determining 'eligible hectare', Member States having taken the decision referred to in the second subparagraph of Article 4(2) may apply a reduction coefficient to convert the hectares concerned into 'eligible hectares'.

6. Areas used for the production of hemp shall only be eligible hectares if the varieties used have a tetrahydrocannabinol content not exceeding 0,2 %.

Article 33

Declaration of eligible hectares

1. For the purposes of the activation of payment entitlements provided for in Article 32(1), the farmer shall declare the parcels corresponding to the eligible hectares accompanying any payment entitlement. Except in the case of force majeure or exceptional circumstances, the parcels declared shall be at the farmer's disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amending the aid application as referred to in Article 72(1) of Regulation (EU) No 1306/2013.

2. Member States may, in duly justified circumstances, authorise the farmer to modify his declaration provided that he maintains at least the number of hectares corresponding to his payment entitlements and respects the conditions for granting the payment under the basic payment scheme for the area concerned.

Article 34

Transfer of payment entitlements

1. Payment entitlements may be transferred only to a farmer entitled to be granted direct payments in accordance with Article 9 established in the same Member State, except in the case of transfer by actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the Member State where they were allocated.

2. Where Member States exercise the option in Article 23(1), payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Payment entitlements, including in the case of actual or anticipated inheritance, may be activated only in the region where they were allocated.

3. Member States not exercising the option in Article 23(1) may decide that payment entitlements may be transferred or activated only within the same region, except in the case of actual or anticipated inheritance.

Such regions shall be defined at the appropriate territorial level in accordance with objective criteria and in a way that ensures the equal treatment of farmers and avoids distortions of the market and of competition.

4. Where payment entitlements are transferred without land, Member States may, acting in compliance with the general principles of Union law, decide that a part of the payment entitlements transferred are to revert to the national reserve or regional reserves or that their unit value is to be reduced in favour of the national reserve or regional reserves. Such reduction may be applied to one or more types of transfer.

5. The Commission shall adopt implementing acts laying down detailed rules governing the notification by farmers of transfer of payment entitlements to the national authorities and the deadlines within which such notification is to take place. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 35

Delegated powers

1. In order to ensure legal certainty and to clarify the specific situations that may arise in the application of the basic payment scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning:

- (a) rules on eligibility and access in respect of the basic payment scheme of farmers in the case of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination, transfer of payment entitlements, merger or scission of the holding, and the application of the contract clause referred to in Article 24(8);
- (b) rules on the calculation of the value and number or on the increase or reduction in the value of payment entitlements in relation to the allocation of payment entitlements under any provision of this Title, including rules:
 - (i) on the possibility of a provisional value and number or of a provisional increase of payment entitlements allocated on the basis of the application from the farmer,
 - (ii) on the conditions for establishing the provisional and definitive value and number of the payment entitlements,
 - (iii) on the cases where a sale or lease contract may affect the allocation of payment entitlements;
- (c) rules on the establishment and calculation of the value and number of payment entitlements received from the national reserve or regional reserves;
- (d) rules on the modification of the unit value of payment entitlements in the case of fractions of payment entitlements and in the case of transfer of payment entitlements referred to in Article 34(4);
- (e) criteria for applying options under points (a), (b) and (c) of the third subparagraph of Article 24(1);
- (f) criteria for applying limitations on the number of payment entitlements to be allocated in accordance with Article 24(4) to (7);
- (g) criteria for the allocation of payment entitlements pursuant to Article 30(6) and (7);

(h) criteria for setting the reduction coefficient referred to in Article 32(5).

2. In order to ensure the proper management of payment entitlements, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules on the content of the declaration and the requirements for the activation of payment entitlements.

3. In order to preserve public health, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down rules making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content referred to in Article 32(6).

Section 4

Single area payment scheme

Article 36

Single area payment scheme

1. Member States applying in 2014 the single area payment scheme laid down in Chapter 2 of Title V of Regulation (EC) No 73/2009 may, under the conditions set out in this Regulation, decide to continue to apply that scheme until 31 December 2020 at the latest. They shall notify the Commission of their decision and of the end date of the application of that scheme by 1 August 2014.

During the period of application of the single area payment scheme, Sections 1, 2 and 3 of this Chapter shall not apply to those Member States, with the exception of the second subparagraph of Article 23(1), Article 23(6) as well as Article 32(2) to (6).

2. The single area payment shall be granted on an annual basis for each eligible hectare declared by the farmer in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013. It shall be calculated each year by dividing the annual financial envelope established in accordance with paragraph 4 of this Article by the total number of eligible hectares declared in the Member State concerned in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

3. By way of derogation from paragraph 2 of this Article, Member States that decide to apply Article 38 of this Regulation from 1 January 2018 at the latest may use, for the period during which they apply this Article, up to 20 % of the annual financial envelope referred to in paragraph 2 of this Article to differentiate the single area payment per hectare.

When doing so, they shall take into account the support granted for calendar year 2014 under one or more of the schemes pursuant to points (a), (b) and (c) of Article 68(1) and Articles 126, 127 and 129 of Regulation (EC) No 73/2009.

Cyprus may differentiate the aid taking into account the sector-specific financial envelopes set out in Annex XVIIa of Regulation (EC) No 73/2009, reduced by any aid granted to the same sector pursuant to Article 37 of this Regulation.

4. The Commission shall adopt implementing acts setting, for each Member State, the annual national ceiling for the single area payment scheme by deducting from the annual national ceiling set out in Annex II the ceilings fixed in accordance with Articles 42, 47, 49, 51 and 53. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

5. Except in the case of force majeure or exceptional circumstances, the hectares referred to in paragraph 2 shall be at the farmer's disposal on a date fixed by the Member State, which shall be no later than the date fixed in that Member State for amendment of the aid application referred to in Article 72(1) of Regulation (EU) No 1306/2013.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules on eligibility and the access of farmers to the single area payment scheme.

Article 37

Transitional national aid

1. Member States applying the single area payment scheme in accordance with Article 36 may decide to grant transitional national aid in the period 2015-2020.

2. Transitional national aid may be granted to farmers in sectors in respect of which this aid or, in the case of Bulgaria and Romania, complementary national direct payments were granted in 2013.

3. The conditions for granting transitional national aid shall be identical to those authorised for the granting of payments pursuant to Article 132(7) or Article 133a of Regulation (EC) No 73/2009 in respect of 2013, with the exception of the reduction of the payments resulting from the application of Article 132(2) in conjunction with Articles 7 and 10 of that Regulation.

4. The total amount of transitional national aid that may be granted to farmers in any of the sectors referred to in paragraph 2 shall be limited to the following percentage of the sector-specific financial envelopes authorised by the Commission in accordance with Article 132(7) or Article 133a(5) of Regulation (EC) No 73/2009 in 2013:

— 75 % in 2015,

— 70 % in 2016,

— 65 % in 2017,

— 60 % in 2018,

— 55 % in 2019,

— 50 % in 2020.

For Cyprus, the percentage shall be calculated on the basis of the sector-specific financial envelopes set out in Annex XVIIa to Regulation (EC) No 73/2009.

5. Paragraphs 2 and 3 shall not apply to Cyprus.

6. Member States shall notify any decision referred to in paragraph 1 to the Commission by 31 March of each year. The notification shall include the following information:

(a) the sector-specific financial envelope;

(b) the maximum rate of transitional national aid, where appropriate.

7. Member States may decide, on the basis of objective criteria and within the limits set out in paragraph 4, on the amounts of transitional national aid to be granted.

Section 5

Implementation of the basic payment scheme in the member states having applied the single area payment scheme

Article 38

Introduction of the basic payment scheme in the Member States having applied the single area payment scheme

Save as otherwise provided for in this Section, this Title shall apply to the Member States having applied the single area payment scheme provided for in Section 4 of this Chapter.

Articles 24 to 29 shall not apply to those Member States.

Article 39

First allocation of payment entitlements

1. Payment entitlements shall be allocated to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation provided that:

(a) they apply for allocation of payment entitlements under the basic payment scheme by a final date for submission of applications to be set in accordance with point (b) of the first subparagraph of Article 78 of Regulation (EU) No 1306/2013 in the first year of implementation of the basic payment scheme, except in case of force majeure or exceptional circumstances; and

(b) they were entitled to receive payments, before any reduction or exclusion provided for in Chapter 4 of Title II of Regulation (EC) No 73/2009, in respect of an aid application for direct payments, for transitional national aid or for complementary national direct payments in accordance with Regulation (EC) No 73/2009 for 2013.

Member States may allocate payment entitlements to farmers who are entitled to be granted direct payments in accordance with Article 9 of this Regulation, who fulfil the condition provided for in point (a) of the first subparagraph, who did not receive payments for 2013 in respect of an aid application referred to in point (b) of the first subparagraph of this paragraph and who, on the date fixed by the Member State concerned in accordance with Article 11(2) of Regulation (EC) No 1122/2009 for the claim year 2013, had only agricultural land that was not in good agricultural condition on the 30 June 2003, as provided for in Article 124(1) of Regulation (EC) No 73/2009.

2. Except in the case of force majeure or exceptional circumstances, the number of payment entitlements allocated per farmer in the first year of implementation of the basic payment scheme shall be equal to the number of eligible hectares which the farmer declares in his aid application in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 for the first year of implementation of the basic payment scheme and which are at his disposal on a date fixed by the Member State. That date shall be no later than the date fixed in that Member State for amending such aid application.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down further rules on the introduction of the basic payment scheme in Member States having applied the single area payment scheme.

4. The Commission shall adopt implementing acts laying down rules on applications for the allocation of payment entitlements submitted in the year of allocation of payment entitlements where those payment entitlements may not yet be definitively established and where that allocation is affected by specific circumstances.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 40

Value of payment entitlements

1. In the first year of implementation of the basic payment scheme, Member States shall calculate the unit value of payment entitlements by dividing a fixed percentage of the national ceiling set out in Annex II for each relevant year by the

number of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves.

The fixed percentage referred to in the first subparagraph shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30 by the national ceiling set out in Annex II for the first year of implementation of the basic payment scheme. The payment entitlements shall be expressed in a number that corresponds to a number of hectares.

2. By way of derogation from the calculation method referred to in paragraph 1, Member States may decide to differentiate the value of payment entitlements in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves for each relevant year, on the basis of their initial unit value.

3. The initial unit value of payment entitlements referred to in paragraph 2 shall be set by dividing a fixed percentage of the total value of aid, excluding aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, received by a farmer in accordance with this Regulation for the calendar year preceding the implementation of the basic payment scheme, before the application of Article 63 of Regulation (EU) No 1306/2013, by the number of payment entitlements allocated to that farmer in the first year of implementation of the basic payment scheme, excluding those allocated from the national reserve or regional reserves.

That fixed percentage shall be calculated by dividing the national or regional ceiling for the basic payment scheme to be set in accordance with, respectively, Article 22(1) or Article 23(2) of this Regulation for the first year of implementation of the basic payment scheme, after applying the linear reduction provided for in paragraph 1 or, where applicable, paragraph 2 of Article 30, by the total value of aid, excluding aid pursuant to Articles 41, 43, 48 and 50 and Title IV of this Regulation, granted for the calendar year preceding the implementation of the basic payment scheme within the Member State or region concerned, before the application of Article 63 of Regulation (EU) No 1306/2013.

4. When applying paragraph 2, Member States, acting in compliance with the general principles of Union law, shall move towards approximating the value of the payment entitlements at national or regional level. To this end, Member States shall fix the steps to be taken and the method of calculation to be used and shall notify them to the Commission by 1 August of the year preceding the implementation of the basic payment scheme. Those steps shall include annual progressive modifications of the initial value of payment entitlements referred to in paragraph 3 in accordance with objective and non-discriminatory criteria, starting from the first year of implementation of the basic payment scheme.

In the first year of implementation of the basic payment scheme, Member States shall inform the farmers of the value of their entitlements, calculated in accordance with this Article, for each year of the period covered by this Regulation.

5. For the purposes of paragraph 3, a Member State may, on the basis of objective criteria, provide that, in cases of sale or grant or expiry of all or part of a lease of agricultural areas after the date fixed pursuant to Article 36(5) and before the date fixed pursuant to Article 33(1), the increase, or a part thereof, in the value of payment entitlements that would be allocated to the farmer concerned is to revert to the national reserve or regional reserves where the increase would lead to a windfall profit for the farmer concerned.

Those objective criteria shall be established in such a way as to ensure the equal treatment of farmers and to avoid distortions of the market and of competition and shall include, at least, the following:

- (a) a minimum duration for the lease;
- (b) the proportion of the payment received which is to revert to the national reserve or regional reserves.

CHAPTER 2

Redistributive payment

Article 41

General rules

1. Member States may decide by 1 August of any given year to grant, from the following year, an annual payment to farmers who are entitled to a payment under the basic payment scheme referred to in Sections 1, 2, 3 and 5 of Chapter 1 or under the single area payment scheme referred to in Section 4 of Chapter 1 ("the redistributive payment").

Member States shall notify the Commission of any such decision by the date referred to in the first subparagraph.

2. Member States which have decided to apply the basic payment scheme at regional level in accordance with Article 23 may apply the redistributive payment at regional level.

3. Without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11, of linear reductions as referred in Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the redistributive payment shall be granted annually upon activation of payment entitlements by the farmer, or, in Member States applying Article 36 of this Regulation, upon declaration of eligible hectares by the farmer.

4. The redistributive payment shall be calculated each year by Member States by multiplying a figure to be set by the Member State, which shall not be higher than 65 % of the national or regional average payment per hectare, by the number of payment entitlements activated by the farmer in accordance with Article 33(1) or by the number of eligible hectares declared by the farmer in accordance with Article 36(2). The number of such payment entitlements or hectares shall not exceed a maximum to be set by Member States which shall not be higher than 30 hectares or the average size of agricultural holdings set out in Annex VIII if that average size exceeds 30 hectares in the Member State concerned.

5. Provided that the maximum limits set out in paragraph 4 are respected, Member States may, at national level, establish a graduation in the number of hectares set in accordance with that paragraph, which shall apply identically to all farmers.

6. The national average payment per hectare referred to in paragraph 4 of this Article shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in 2015.

The regional average payment per hectare referred to in paragraph 4 of this Article shall be established by the Member States by using a share of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in the region concerned in accordance with Article 33(1) in 2015. For each region, this share shall be calculated by dividing the respective regional ceiling set in accordance with Article 23(2) by the national ceiling set in accordance with Article 22(1), after applying the linear reduction provided for in paragraph 1 of Article 30 where paragraph 2 of that Article is not applied.

7. Member States shall ensure that no advantage provided for under this Chapter is granted to farmers in respect of whom it is established that, after 18 October 2011, they divided their holding with the sole purpose of benefiting from the redistributive payment. This shall also apply to farmers whose holdings result from that division.

8. In the case of a legal person, or a group of natural or legal persons, Member States may apply the maximum number of payment entitlements or hectares referred to in paragraph 4 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

Article 42

Financial provisions

1. In order to finance the redistributive payment, Member States may decide, by the date referred to in Article 41(1), to use up to 30 % of the annual national ceiling set out in Annex II. They shall notify the Commission of any such decision by that date.

2. On the basis of the percentage of the national ceiling to be used by Member States pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for the redistributive payment on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 3

Payment for agricultural practices beneficial for the climate and the environment

Article 43

General rules

1. Farmers entitled to a payment under the basic payment scheme or the single area payment scheme shall observe, on all their eligible hectares within the meaning of Article 32(2) to (5), the agricultural practices beneficial for the climate and the environment referred to in paragraph 2 of this Article or the equivalent practices referred to in paragraph 3 of this Article.

2. The agricultural practices beneficial for the climate and the environment shall be the following:

- (a) crop diversification;
- (b) maintaining existing permanent grassland; and
- (c) having ecological focus area on the agricultural area.

3. The equivalent practices shall be those which include similar practices that yield an equivalent or higher level of benefit for the climate and the environment compared to one or several of the practices referred to in paragraph 2. Those equivalent practices and the practice or practices referred to in paragraph 2 to which they are equivalent are listed in Annex IX and shall be covered by any of the following:

- (a) commitments undertaken in accordance with either Article 39(2) of Regulation (EC) No 1698/2005 or Article 28(2) of Regulation (EU) No 1305/2013;
- (b) national or regional environmental certification schemes, including those for the certification of compliance with national environmental legislation, going beyond the relevant mandatory standards established pursuant to

Chapter I of Title VI of Regulation (EU) No 1306/2013, which aim to meet objectives relating to soil and water quality, biodiversity, landscape preservation, and climate change mitigation and adaptation. Those certification schemes may include the practices listed in Annex IX to this Regulation, the practices referred to in paragraph 2 of this Article, or a combination of those practices.

4. The equivalent practices referred to in paragraph 3 shall not be the subject of double funding.

5. Member States may decide, including, where appropriate, at regional level, to restrict the choice of the farmers to use the options referred to in points (a) and (b) of paragraph 3.

6. Member States may decide, including, where appropriate, at regional level, that farmers shall carry out all of their relevant obligations under paragraph 1 in accordance with national or regional environmental certification schemes referred to in point (b) of paragraph 3.

7. Subject to the decisions of Member States referred to in paragraphs 5 and 6, a farmer may observe one or more of the practices referred to in point (a) of paragraph 3 only if these fully replace the related practice or practices referred to in paragraph 2. A farmer may use certification schemes referred to in point (b) of paragraph 3 only if these cover the entire obligation referred to in paragraph 1.

8. Member States shall notify the Commission of their decisions referred to in paragraphs 5 and 6 and of the specific commitments or certification schemes which they intend to apply as equivalent practices within the meaning of paragraph 3.

The Commission shall assess whether the practices included in the specific commitments or certification schemes are covered by the list in Annex IX, and if it considers this not to be the case, notify Member States accordingly by means of implementing acts adopted without applying the procedure referred to in Article 71(2) or (3). Where the Commission notifies a Member State that those practices are not covered by the list in Annex IX, that Member State shall not recognise as equivalent practices within the meaning of paragraph 3 of this Article the specific commitments or certification schemes covered by the Commission notification.

9. Without prejudice to paragraphs 10 and 11 of this Article, to the application of financial discipline and of linear reductions in accordance with Article 7 of this Regulation and to the application of Article 63 of Regulation (EU) No 1306/2013, Member States shall grant the payment referred to in this Chapter to farmers who observe the practices referred to in paragraph 1 of this Article that are relevant for them, and to the extent that those farmers comply with Articles 44, 45 and 46 of this Regulation.

This payment shall take the form of an annual payment per eligible hectare declared in accordance with Article 33(1) or Article 36(2), the amount of which shall be calculated annually by dividing the amount resulting from the application of Article 47 by the total number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in the Member State or the region concerned.

By way of derogation from the second subparagraph, Member States deciding to apply Article 25(2) may decide to grant the payment referred to in this paragraph as a percentage of the total value of the payment entitlements that the farmer has activated in accordance with Article 33(1) for each relevant year.

For each year and each Member State or region, that percentage shall be calculated by dividing the amount resulting from the application of Article 47 by the total value of all payment entitlements activated in accordance with Article 33(1) in that Member State or region.

10. Farmers whose holdings are fully or partly situated in areas covered by Directives 92/43/EEC, 2000/60/EC, or 2009/147/EC shall be entitled to the payment referred to in this Chapter provided that they observe the practices referred to in this Chapter to the extent that those practices are compatible in the holding concerned with the objectives of those Directives.

11. Farmers complying with the requirements laid down in Article 29(1) of Regulation (EC) No 834/2007 as regards organic farming shall be entitled ipso facto to the payment referred to in this Chapter.

The first subparagraph shall apply only to the units of a holding that are used for organic production in accordance with Article 11 of Regulation (EC) No 834/2007.

12. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) adding equivalent practices to the list set out in Annex IX;
- (b) establishing appropriate requirements applicable to the national or regional certification schemes referred to in point (b) of paragraph 3 of this Article, including the level of assurance to be provided by those schemes;
- (c) establishing detailed rules for the calculation of the amount referred to in Article 28(6) of Regulation (EU) No 1305/2013 for the practices referred to in points 3 and 4 of Section I and point 7 of Section III of Annex IX to this Regulation, and any further equivalent practices added to that Annex pursuant to point (a) of this paragraph for which a specific calculation is needed in order to avoid double funding.

13. The Commission shall adopt implementing acts establishing rules on the procedure for the notifications, including on timetables for their submission, and the Commission assessment referred to in paragraph 8. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 44

Crop diversification

1. Where the arable land of the farmer covers between 10 and 30 hectares and is not entirely cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle, there shall be at least two different crops on that arable land. The main crop shall not cover more than 75 % of that arable land.

Where the arable land of the farmer covers more than 30 hectares and is not entirely cultivated with crops under water for a significant part of the year or for a significant part of the crop cycle, there shall be at least three different crops on that arable land. The main crop shall not cover more than 75 % of that arable land and the two main crops together shall not cover more than 95 % of that arable land.

2. Without prejudice to the number of crops required pursuant to paragraph 1, the maximum thresholds set out therein shall not apply to holdings where grasses or other herbaceous forage or land lying fallow cover more than 75 % of the arable land. In such cases, the main crop on the remaining arable area shall not cover more than 75 % of that remaining arable land, except where this remaining area is covered by grasses or other herbaceous forage or land lying fallow.

3. Paragraphs 1 and 2 shall not apply to holdings:

- (a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, or is subject to a combination of these uses, provided that the arable area not covered by these uses does not exceed 30 hectares;
- (b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of these uses, provided that the arable area not covered by these uses does not exceed 30 hectares;
- (c) where more than 50 % of the areas of arable land declared were not declared by the farmer in his aid application of the previous year and, where based on a comparison of the geo-spatial aid applications, all arable land is being cultivated with a different crop compared to that of the previous calendar year;

(d) that are situated in areas north of 62nd parallel or certain adjacent areas. Where the arable land of such holdings covers more than 10 hectares, there shall be at least two crops on the arable land, and none of these crops shall cover more than 75 % of the arable land, unless the main crop is grasses or other herbaceous forage, or land lying fallow.

4. For the purposes of this Article, a "crop" means any of the following:

- (a) a culture of any of the different genera defined in the botanical classification of crops;
- (b) a culture of any of the species in the case of *Brassicaceae*, *Solanaceae*, and *Cucurbitaceae*;
- (c) land lying fallow;
- (d) grasses or other herbaceous forage.

Winter crop and spring crop shall be considered to be distinct crops even if they belong to the same genus.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) recognising other types of genera and species than those referred to in paragraph 4 of this Article; and
- (b) laying down the rules concerning the application of the precise calculation of shares of different crops.

Article 45

Permanent grassland

1. Member States shall designate permanent grasslands which are environmentally sensitive in areas covered by Directives 92/43/EEC or 2009/147/EC, including in peat and wetlands situated in these areas, and which need strict protection in order to meet the objectives of those Directives.

Member States may, in order to ensure the protection of environmentally valuable permanent grasslands, decide to designate further sensitive areas situated outside areas covered by Directives 92/43/EEC or 2009/147/EC, including permanent grasslands on carbon-rich soils.

Farmers shall not convert or plough permanent grassland situated in areas designated by Member States under the first subparagraph and, where applicable, the second subparagraph.

2. Member States shall ensure that the ratio of areas of permanent grassland to the total agricultural area declared by the farmers in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 does not decrease by more than 5 % compared to a reference ratio to be established by Member States in 2015 by dividing areas of permanent grassland

referred to in point (a) of the second subparagraph of this paragraph by the total agricultural area referred to in point (b) of that subparagraph.

For the purposes of establishing the reference ratio referred to in the first subparagraph:

- (a) "areas of permanent grassland" means the land under permanent pasture declared in 2012, or 2013 in the case of Croatia, in accordance with Regulation (EC) No 73/2009 by the farmers subject to the obligations under this Chapter, as well as the areas of permanent grassland declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 by the farmers subject to the obligations under this Chapter that have not been declared as land under permanent pasture in 2012 or, in the case of Croatia, 2013;
- (b) "total agricultural area" means the agricultural area declared in 2015 in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 by farmers subject to the obligations under this Chapter.

The reference ratio of permanent grassland shall be recalculated in cases where farmers subject to the obligations under this Chapter have an obligation to reconvert an area into permanent grassland in 2015 or in 2016 in accordance with Article 93 of Regulation (EU) No 1306/2013. In such cases, these areas shall be added to the areas of permanent grassland referred to in point (a) of the second subparagraph of this paragraph.

The ratio of permanent grassland shall be established each year on the basis of the areas declared by the farmers subject to the obligations under this Chapter for that year in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

The obligation under this paragraph shall apply at national, regional or the appropriate sub-regional level. Member States may decide to apply an obligation to maintain permanent grassland at holding level in order to ensure that the ratio of permanent grassland does not decrease by more than 5 %. Member States shall notify the Commission of any such decision by 1 August 2014.

Member States shall notify the reference ratio and the ratio referred to in this paragraph to the Commission.

3. Where it is established that the ratio referred to in paragraph 2 has decreased by more than 5 % at regional or sub-regional level or, where applicable, at national level, the Member State concerned shall impose obligations at holding level to reconvert land into permanent grassland for those farmers who have land at their disposal which was converted from land under permanent pasture or from permanent grassland into land for other uses during a period in the past.

However, where the amount of areas of permanent grassland in absolute terms established in accordance with point (a) of the second subparagraph of paragraph 2 is maintained within certain limits, the obligation set out in the first subparagraph of paragraph 2 shall be considered to have been complied with.

4. Paragraph 3 shall not apply where the decrease below the threshold is the result of afforestation that is compatible with the environment and does not include plantations of short rotation coppice, Christmas trees or fast growing trees for energy production.

5. In order to ensure that the ratio of permanent grassland is maintained, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down detailed rules on maintenance of permanent grassland, including rules on reconversion in the case of non-respect of the obligation in paragraph 1 of this Article, rules applying to Member States for setting up obligations at holding level for maintaining permanent grassland as referred to in paragraphs 2 and 3 and any adjustment of the reference ratio referred to in paragraph 2 that may become necessary.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) laying down the framework for the designation of further sensitive areas referred to in the second subparagraph of paragraph 1 of this Article;
- (b) establishing detailed methods for the determination of the ratio of permanent grassland and of the total agricultural area that has to be maintained pursuant to paragraph 2 of this Article;
- (c) defining the period in the past referred to in the first subparagraph of paragraph 3 of this Article.

7. The Commission shall adopt implementing acts fixing the limits referred to in the second subparagraph of paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 46

Ecological focus area

1. Where the arable land of a holding covers more than 15 hectares, the farmer shall ensure that, from 1 January 2015, an area corresponding to at least 5 % of the arable land of the holding that the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013 and, if they are considered to be ecological focus area by the Member State in accordance with paragraph 2 of this Article, including the areas mentioned in points (c), (d), (g) and (h) of that paragraph is ecological focus area.

The percentage referred to in the first subparagraph of this paragraph shall be increased from 5 % to 7 % subject to a legislative act of the European Parliament and of the Council in accordance with Article 43(2) TFEU.

By 31 March 2017, the Commission shall present an evaluation report on the implementation of the first subparagraph of this paragraph accompanied, where appropriate, by a proposal for a legislative act as referred to in the second subparagraph.

2. By 1 August 2014, Member States shall decide that one or more of the following are to be considered to be ecological focus area:

- (a) land lying fallow;
- (b) terraces;
- (c) landscape features, including such features adjacent to the arable land of the holding which, by way of derogation from Article 43(1) of this Regulation, may include landscape features that are not included in the eligible area in accordance with point (c) of Article 76(2) of Regulation (EU) No 1306/2013;
- (d) buffer strips, including buffer strips covered by permanent grassland, provided that these are distinct from adjacent eligible agricultural area;
- (e) hectares of agro-forestry that receive, or have received, support under Article 44 of Regulation (EC) No 1698/2005 and/or Article 23 of Regulation (EU) No 1305/2013;
- (f) strips of eligible hectares along forest edges;
- (g) areas with short rotation coppice with no use of mineral fertiliser and/or plant protection products;
- (h) afforested areas referred to in point (b)(ii) of Article 32(2) of this Regulation;
- (i) areas with catch crops, or green cover established by the planting and germination of seeds, subject to the application of weighting factors referred to in paragraph 3 of this Article;
- (j) areas with nitrogen-fixing crops.

With the exception of the areas of the holding referred to in points (g) and (h) of the first subparagraph of this paragraph, the ecological focus area shall be located on the arable land of the holding. In the case of areas mentioned in points (c) and (d) of the first subparagraph of this paragraph, the ecological focus area may also be adjacent to the arable land of the holding the farmer declared in accordance with point (a) of the first subparagraph of Article 72(1) of Regulation (EU) No 1306/2013.

3. In order to simplify administration and to take account of the characteristics of the types of ecological focus area listed in the first subparagraph of paragraph 2, as well as to facilitate their measurement, Member States may, when calculating the total hectares represented by the ecological focus area of the holding, make use of the conversion and/or weighting factors set out in Annex X. If a Member State decides to consider to be ecological focus area the area under point (i) of the first subparagraph of paragraph 2 or any other area that is subject to a weighting of less than 1, the use of the weighting factors set out in Annex X shall be mandatory.

4. Paragraph 1 shall not apply to holdings:

- (a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses, provided that the arable area not covered by those uses does not exceed 30 hectares;
- (b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses, provided that the arable area not covered by these uses does not exceed 30 hectares.

5. Member States may decide to implement up to half of the percentage points of the ecological focus area referred to in paragraph 1 at regional level in order to obtain adjacent ecological focus areas. Member States shall designate the areas and the obligations of participating farmers or groups of farmers. The aim of the designation of areas and obligations shall be to underpin the implementation of Union policies on the environment, climate and biodiversity.

6. Member States may decide to allow farmers whose holdings are in close proximity to fulfil the obligation referred to in paragraph 1 collectively ("collective implementation"), provided that the ecological focus areas concerned are contiguous. In order to underpin the implementation of Union policies on the environment, climate and biodiversity, Member States may designate the areas on which collective implementation is possible and may impose further obligations upon farmers or groups of farmers participating in such collective implementation.

Each farmer participating in collective implementation shall ensure that at least 50 % of the area subject to the obligation in paragraph 1 is located on the land of his holding and is in accordance with the second subparagraph of paragraph 2. The number of farmers participating in such collective implementation shall not exceed ten.

7. Member States with more than 50 % of their total land surface area covered by forest may decide that paragraph 1 of this Article shall not apply to holdings situated in areas

designated by those Member States as areas facing natural constraints in accordance with point (a) or (b) of Article 32(1) of Regulation (EU) No 1305/2013, provided that more than 50 % of the land surface area of the unit referred to in the second subparagraph of this paragraph is covered by forest and the ratio of forest land to agricultural land is higher than 3:1.

The area covered by forest and the ratio of forest land to agricultural land shall be assessed on an area level equivalent to the LAU2 level or on the level of another clearly delineated unit which covers a single clear contiguous geographical area having similar agricultural conditions.

8. Member States shall notify the Commission of the decisions referred to in paragraph 2 by 1 August 2014, and of any decisions referred to in paragraphs 3, 5, 6 or 7 by 1 August of the year preceding their application.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 70:

- (a) laying down further criteria for the types of areas referred to in paragraph 2 of this Article to qualify as ecological focus area;
- (b) adding other types of areas than those referred to in paragraph 2 that can be taken into account for the purpose of respecting the percentage referred to in paragraph 1;
- (c) adapting Annex X in order to establish the conversion and weighting factors referred to in paragraph 3 and in order to take into account the criteria and/or types of areas to be defined by the Commission under points (a) and (b) of this paragraph;
- (d) setting rules for the implementation referred to in paragraphs 5 and 6, including the minimum requirements on such implementation;
- (e) establishing the framework within which Member States are to define the criteria to be met by holdings in order to be considered to be in close proximity for the purposes of paragraph 6;
- (f) establishing the methods for determination of the percentage of total land surface area covered by forest and the ratio of forest land to agricultural land referred to in paragraph 7.

Article 47

Financial provisions

1. In order to finance the payment referred to in this Chapter, Member States shall use 30 % of the annual national ceiling set out in Annex II.

2. Member States shall apply the payment referred to in this Chapter at national level.

Member States applying Article 23 may decide to apply the payment at regional level. In such cases, they shall use in each region a share of the ceiling set pursuant to paragraph 3 of this Article. For each region, this share shall be calculated by dividing the respective regional ceiling set in accordance with Article 23(2) by the national ceiling set in accordance with Article 22(1), after applying the linear reduction provided for in paragraph 1 of Article 30 where paragraph 2 of that Article is not applied.

3. The Commission shall adopt implementing acts fixing the corresponding ceilings for the payment referred to in this Chapter on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 4

Payment for areas with natural constraints

Article 48

General rules

1. Member States may grant a payment to farmers who are entitled to a payment under the basic payment scheme or the single area payment scheme referred to in Chapter 1 and whose holdings are fully or partly situated in areas with natural constraints designated by Member States in accordance with Article 32(1) of Regulation (EU) No 1305/2013 ("payment for areas with natural constraints").

2. Member States may decide to grant the payment for areas with natural constraints to all areas falling within the scope of paragraph 1, or to restrict the payment to some of those areas on the basis of objective and non-discriminatory criteria.

3. Without prejudice to paragraph 2 of this Article, to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reduction in accordance with Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the payment for areas with natural constraints shall be granted annually per eligible hectare situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article. It shall be paid upon activation of payment entitlements in respect of those hectares held by the farmer concerned or, in Member States applying Article 36 of this Regulation, upon declaration of those eligible hectares by the farmer concerned.

4. The payment for areas with natural constraints, per hectare, shall be calculated by dividing the amount resulting from the application of Article 49 by the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) which are situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article.

Member States may, on the basis of objective and non-discriminatory criteria, also set a maximum number of hectares per holding for which support under this Chapter can be granted.

5. Member States may apply the payment for areas with natural constraints at regional level under the conditions laid down in this paragraph provided that they identified the regions concerned in accordance with objective and non-discriminatory criteria and, in particular, their natural constraint characteristics, including the severity of the constraints, and their agronomic conditions.

Member States shall divide the national ceiling referred to in Article 49(1) between the regions in accordance with objective and non-discriminatory criteria.

The payment for areas with natural constraints at regional level shall be calculated by dividing the regional ceiling calculated in accordance with the second subparagraph of this paragraph by the number of eligible hectares declared in the respective region in accordance with Article 33(1) or Article 36(2) which are situated in the areas for which a Member State has decided to grant a payment in accordance with paragraph 2 of this Article.

Article 49

Financial provisions

1. In order to finance the payment for areas with natural constraints, Member States may decide, by 1 August 2014, to use up to 5 % of their annual national ceiling set out in Annex II. They shall notify the Commission of any such decision by that date.

Member States may, by 1 August 2016, review their decision and amend it with effect from 1 January 2017. They shall notify the Commission of any such decision by 1 August 2016.

2. On the basis of the percentage of the national ceiling to be used by Member States pursuant to paragraph 1, the Commission shall adopt implementing acts fixing the corresponding ceilings for the payment for areas with natural constraints on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 5

Payment for young farmers

Article 50

General rules

1. Member States shall grant an annual payment to young farmers who are entitled to a payment under the basic payment scheme or the single area payment scheme referred to in Chapter 1 ("payment for young farmers").

2. For the purposes of this Chapter, 'young farmers', means natural persons:

- (a) who are setting up for the first time an agricultural holding as head of the holding, or who have already set up such a holding during the five years preceding the first submission of an application under the basic payment scheme or the single area payment scheme referred to in Article 72(1) of Regulation (EU) No 1306/2013; and
- (b) who are no more than 40 years of age in the year of submission of the application referred to in point (a).

3. Member States may define further objective and non-discriminatory eligibility criteria for young farmers applying for the payment for young farmers as regards appropriate skills and/or training requirements.

4. Without prejudice to the application of financial discipline, of reduction of payments in accordance with Article 11 and of linear reductions in accordance with Article 7 of this Regulation, and to the application of Article 63 of Regulation (EU) No 1306/2013, the payment for young farmers shall be granted annually upon activation of payment entitlements by the farmer or, in Member States applying Article 36 of this Regulation, upon declaration of eligible hectares by the farmer.

5. The payment for young farmers shall be granted per farmer for a maximum period of five years. That period shall be reduced by the number of years elapsed between the setting up referred to in point (a) of paragraph 2 and the first submission of the application for the payment for young farmers.

6. Each year, Member States not applying Article 36 shall calculate the amount of the payment for young farmers by multiplying the number of entitlements the farmer has activated in accordance with Article 32(1) by a figure corresponding to:

- (a) 25 % of the average value of the owned or leased-in payment entitlements held by the farmer; or
- (b) 25 % of an amount calculated by dividing a fixed percentage of the national ceiling for the calendar year 2019 set out in Annex II by the number of all eligible hectares declared in 2015 in accordance with Article 33(1). That fixed percentage shall be equal to the share of the national ceiling remaining for the basic payment scheme in accordance with Article 22(1) for 2015.

7. Member States applying Article 36 shall each year calculate the amount of the payment for young farmers by multiplying a figure corresponding to 25 % of the single area

payment calculated in accordance with Article 36 by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).

8. By way of derogation from the paragraphs 6 and 7, Member States may calculate each year the amount of the payment for young farmers by multiplying a figure corresponding to 25 % of the national average payment per hectare by the number of entitlements that the farmer has activated in accordance with Article 32(1), or by the number of eligible hectares that the farmer has declared in accordance with Article 36(2).

The national average payment per hectare shall be calculated by dividing the national ceiling for the calendar year 2019 set out in Annex II by the number of eligible hectares declared in 2015 in accordance with Article 33(1) or Article 36(2).

9. Member States shall set a single maximum limit applicable to the number of payment entitlements activated by the farmer or to the number of eligible hectares declared by the farmer. That limit shall not be below 25 or above 90. Member States shall respect that limit when applying paragraphs 6, 7 and 8.

10. Instead of applying paragraphs 6 to 9, Member States may allocate an annual lump sum amount per farmer calculated by multiplying a fixed number of hectares by a figure corresponding to 25 % of the national average payment per hectare, as established in accordance with paragraph 8.

The fixed number of hectares referred to in the first subparagraph of this paragraph shall be calculated by dividing the total number of eligible hectares declared pursuant to Article 33(1) or Article 36(2) by the young farmers applying for the payment for young farmers in 2015 by the total number of young farmers applying for that payment in 2015.

A Member State may recalculate the fixed number of hectares in any year after 2015 in the case of significant changes in the number of young farmers applying for the payment or in the size of the holdings of young farmers, or both.

The annual lump sum amount that a farmer may be granted shall not exceed the total amount of his basic payment before application of Article 63 of Regulation (EU) No 1306/2013 in the given year.

11. In order to guarantee the protection of the rights of beneficiaries and to avoid discrimination among them, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning the conditions under which a legal person may be considered to be eligible to receive the payment for young farmers.

Article 51

Financial provisions

1. In order to finance the payment for young farmers, Member States shall use a percentage, which shall not be higher than 2 %, of the annual national ceiling set out in Annex II. The Member States shall notify the Commission, by 1 August 2014, of the estimated percentage necessary to finance that payment.

Member States may, by 1 August of each year, revise their estimated percentage with effect from the subsequent year. They shall notify the Commission of the revised percentage by 1 August of the year preceding its application.

2. Without prejudice to the maximum of 2 % laid down in paragraph 1 of this Article, where the total amount of the payment for young farmers applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 of this Article, and where that ceiling is lower than that maximum, that Member State shall finance the difference by applying point (f) of the first subparagraph of Article 30(7) in the relevant year, by applying a linear reduction to all payments to be granted to all farmers in accordance with Article 32 or Article 36(2), or by both means.

3. Where the total amount of the payment for young farmers applied for in a Member State in a particular year exceeds the ceiling set pursuant to paragraph 4 of this Article, and where that ceiling amount to 2 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid pursuant to Article 50 in order to comply with that ceiling.

4. On the basis of the percentage notified by Member States pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for the payment for young farmers on a yearly basis.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

TITLE IV

COUPLED SUPPORT

CHAPTER 1

Voluntary coupled support

Article 52

General rules

1. Member States may grant coupled support to farmers under the conditions laid down in this Chapter (in this Chapter referred to as "coupled support").

2. Coupled support may be granted to the following sectors and productions: cereals, oilseeds, protein crops, grain legumes, flax, hemp, rice, nuts, starch potato, milk and milk products, seeds, sheepmeat and goatmeat, beef and veal, olive oil, silkworms, dried fodder, hops, sugar beet, cane and chicory, fruit and vegetables and short rotation coppice.

3. Coupled support may only be granted to those sectors or to those regions of a Member State where specific types of farming or specific agricultural sectors that are particularly important for economic, social or environmental reasons undergo certain difficulties.

4. By way of derogation from paragraph 3, coupled support may also be granted to farmers who:

(a) on 31 December 2014, have payment entitlements granted in accordance with Section 2 of Chapter 3 of Title III and Article 71m of Regulation (EC) No 1782/2003 and in accordance with Article 60 and the fourth paragraph of Article 65 of Regulation (EC) No 73/2009; and

(b) have at their disposal no eligible hectares for the activation of payment entitlements under the basic payment scheme as referred to in Chapter 1 of Title III of this Regulation.

5. Coupled support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned.

6. Coupled support shall take the form of an annual payment and shall be granted within defined quantitative limits and be based on fixed areas and yields or on a fixed number of animals.

7. In the case of a legal person, or a group of natural or legal persons, Member States may apply the limits referred to in paragraph 6 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

8. Any coupled support granted under this Article shall be consistent with other Union measures and policies.

9. In order to ensure efficient and targeted use of Union funds and to avoid double funding under other similar support instruments, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

(a) the conditions for granting coupled support;

(b) rules on consistency with other Union measures and on the cumulation of support.

Article 53

Financial provisions

1. In order to finance the coupled support, Member States may, by 1 August of the year preceding the first year of implementation of such support, decide to use up to 8 % of their annual national ceiling set out in Annex II.

2. By way of derogation from paragraph 1, Member States may decide to use up to 13 % of the annual national ceiling set out in Annex II, provided that:

(a) until 31 December 2014:

- (i) they apply the single area payment scheme laid down in Title V of Regulation (EC) No 73/2009,
- (ii) they finance measures under Article 111 of that Regulation, or
- (iii) they are covered by the derogation provided for in Article 69(5) or, in the case of Malta, in Article 69(1) of that Regulation; and/or

(b) they allocate, in total, during at least one year in the period 2010-2014, more than 5 % of their amount available for granting the direct payments provided for in Title III, Title IV, with the exception of Section 6 of Chapter 1 thereof, and Title V of Regulation (EC) No 73/2009 for financing:

- (i) the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009,
- (ii) the support provided for in subpoints (i) to (iv) of point (a) and in points (b) and (e) of Article 68(1) of that Regulation, or

(iii) the measures under Chapter 1, with the exception of Section 6 of Title IV of that Regulation.

3. The percentages of the annual national ceiling referred to in paragraphs 1 and 2 may be increased by up to two percentage points for those Member States which decide to use at least 2 % of their annual national ceiling set out in Annex II to support the production of protein crops under this Chapter.

4. By way of derogation from paragraphs 1 and 2, Member States allocating, in total, during at least one year in the period 2010-2014, more than 10 % of their amount available for granting the direct payments provided for in Title III, Title IV, with the exception of Section 6 of Chapter 1 thereof, and Title V of Regulation (EC) No 73/2009 for financing:

(a) the measures laid down in Section 2 of Chapter 2 of Title III of Regulation (EC) No 73/2009;

(b) the support provided for in subpoints (i) to (iv) of point (a) and in points (b) and (e) of Article 68(1) of that Regulation; or

(c) the measures under Chapter 1, with the exception of Section 6, of Title IV of that Regulation

may decide to use more than 13 % of the annual national ceiling set out in Annex II to this Regulation, upon approval by the Commission in accordance with Article 55 of this Regulation.

5. By way of derogation from the percentages set out in paragraphs 1 to 4, Member States may choose to use up to EUR 3 million per year for financing coupled support.

6. Member States may, by 1 August 2016, review their decision pursuant to paragraphs 1 to 4 and decide, with effect from 2017:

(a) to leave unchanged, increase or decrease the percentage fixed pursuant to paragraphs 1, 2 and 3, within the limits laid down therein where applicable, or to leave unchanged or decrease the percentage fixed pursuant to paragraph 4;

(b) to modify the conditions for granting the support;

(c) to cease granting the support under this Chapter.

7. On the basis of the decision taken by each Member State pursuant to paragraphs 1 to 6 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceilings for coupled support on a yearly basis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 54

Notification

1. Member States shall notify the Commission of the decisions referred to in Article 53 by the dates referred to in that Article. Except for the decision referred to in point (c) of Article 53(6), the notification shall include information on the regions targeted, the selected types of farming or sectors, and the level of support to be granted.

2. The decisions referred to in Article 53(2) and (4), or, where appropriate, in point (a) of Article 53(6), shall include a detailed description of the particular situation in the region targeted and of the particular characteristics of the types of farming or specific agricultural sectors, which make the percentage referred to in Article 53(1) insufficient to address the difficulties referred to in Article 52(3) and which justify an increased level of support.

Article 55

Approval by the Commission

1. The Commission shall adopt implementing acts, without applying the procedure referred to in Article 71(2) or (3), approving the decision referred to in Article 53(4), or, where appropriate, in point (a) of Article 53(6), where one of the following needs in the sector or region concerned is demonstrated:

- (a) the need to sustain a certain level of specific production due to the lack of alternatives, and to reduce the risk of production abandonment with the resulting social and/or environmental problems;
- (b) the need to provide stable supply to the local processing industry, thereby avoiding the negative social and economic consequence of any ensuing restructuring;
- (c) the need to compensate disadvantages affecting farmers in a particular sector which are the consequence of continuing disturbances on the related market;
- (d) the need to intervene where the existence of any other support available under this Regulation, Regulation (EU) No 1305/2013 or any approved State aid scheme is deemed to be insufficient to meet the needs referred to in points (a), (b) and (c) of this paragraph.

2. The Commission shall adopt implementing acts laying down rules on the procedure for the assessment and approval of the decisions referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

CHAPTER 2

Crop-specific payment for cotton

Article 56

Scope

Aid shall be granted to farmers producing cotton falling within CN code 5201 00 under the conditions laid down in this Chapter ("crop-specific payment for cotton").

Article 57

Eligibility

1. The crop-specific payment for cotton shall be granted per hectare of eligible area of cotton. The area shall be eligible only if it is located on agricultural land authorised by the Member State for cotton production, sown with varieties authorised by the Member State and actually harvested under normal growing conditions.

The crop-specific payment for cotton shall be paid for cotton of sound, fair and marketable quality.

2. Member States shall authorise the land and the varieties referred to in paragraph 1 in accordance with the rules and conditions to be adopted pursuant to paragraph 3.

3. In order to ensure an efficient management of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules and conditions for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton.

4. The Commission shall adopt implementing acts laying down rules on the procedure for the authorisation of land and varieties for the purposes of the crop-specific payment for cotton and on the notifications to the producers related to this authorisation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 58

Base areas, fixed yields and reference amounts

1. The following national base areas are established:

- Bulgaria: 3 342 ha,
- Greece: 250 000 ha,
- Spain: 48 000 ha,
- Portugal: 360 ha.

2. The following fixed yields in the reference period are established:

- Bulgaria: 1,2 tonne/ha,
- Greece: 3,2 tonne/ha,
- Spain: 3,5 tonne/ha,
- Portugal: 2,2 tonne/ha.

3. The amount of the crop-specific payment per hectare of eligible area shall be calculated by multiplying the yields established in paragraph 2 with the following reference amounts:

- Bulgaria: EUR 584,88 in 2015; and EUR 649,45 for 2016 and onwards,
- Greece: EUR 234,18,
- Spain: EUR 362,15,
- Portugal: EUR 228,00.

4. If the eligible area of cotton in a given Member State and in a given year exceeds the base area established in paragraph 1, the amount referred to in paragraph 3 for that Member State shall be reduced proportionately to the overrun of the base area.

5. In order to make it possible to apply the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning rules on the conditions for the granting of that payment, on the eligibility requirements and on agronomic practices.

6. The Commission may adopt implementing acts laying down rules on the calculation of the reduction provided for in paragraph 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 59

Approved interbranch organisations

1. For the purpose of this Chapter, an 'approved interbranch organisation' means a legal entity made up of farmers producing cotton and at least one ginner, carrying out activities such as:

- (a) helping to better coordinate the way cotton is placed on the market, particularly through research studies and market surveys;
- (b) drawing up standard forms of contract compatible with Union rules;
- (c) orienting production towards products that are better adapted to market needs and consumer demand, particularly in terms of quality and consumer protection;
- (d) updating methods and means to improve product quality;
- (e) developing marketing strategies to promote cotton via quality certification schemes.

2. The Member State where the ginners are established shall approve interbranch organisations that satisfy the criteria to be laid down pursuant to paragraph 3.

3. In order to ensure the efficient application of the crop-specific payment for cotton, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down:

- (a) criteria for the approval of interbranch organisations;
- (b) obligations for producers;
- (c) rules governing the situation where the approved interbranch organisation does not satisfy the criteria referred to in point (a).

Article 60

Granting of the payment

1. Farmers shall be granted the crop-specific payment for cotton per eligible hectare as established in Article 58.

2. In the case of farmers who are members of an approved interbranch organisation, the crop-specific payment for cotton per eligible hectare within the base area laid down in Article 58(1) shall be increased by an amount of EUR 2.

TITLE V

SMALL FARMERS SCHEME

Article 61

General rules

1. Member States may establish a scheme for small farmers in accordance with the conditions laid down in this Title ("small farmers scheme").

Farmers who, in 2015, hold owned or leased-in payment entitlements or, in Member States applying Article 36, claim for the single area payment scheme, and fulfil the minimum requirements provided for in Article 10(1) may opt to participate in the small farmers scheme.

2. Payments under the small farmers scheme shall replace the payments to be granted pursuant to Titles III and IV.

The first subparagraph shall not apply where a Member State opts for the payment method laid down in point (a) of the first subparagraph of Article 63(2). In that case, the payment shall be subject to the respective conditions laid down in Titles III and IV, without prejudice to paragraph 3 of this Article.

3. Farmers participating in the small farmers scheme shall be exempted from the agricultural practices provided for in Chapter 3 of Title III.

4. No advantage provided for under this Title shall be granted in favour of farmers in respect of whom it is established that they artificially created, after 18 October 2011, the conditions to benefit from the small farmers scheme.

Article 62

Participation

1. Farmers wishing to participate in the small farmers scheme shall submit an application by a date to be fixed by Member States which shall not be later than 15 October 2015. The date fixed by Member States cannot, however, be earlier than the last day for submitting an application under the basic payment scheme or the single area payment scheme.

Farmers who have not applied to participate in the small farmers scheme on the date fixed by the Member State, who decide to withdraw from it after that date or who have been selected for support under point (c) of Article 19(1) of Regulation (EU) No 1305/2013 shall no longer be entitled to participate in that scheme.

2. By way of derogation from paragraph 1, Member States may provide that farmers whose amount of direct payments under Titles III and IV is lower than the maximum amount fixed by the Member State in accordance with Article 63 are to be included in the small farmers scheme automatically, unless they expressly withdraw from it by the date fixed by the Member State in accordance with paragraph 1 or in any subsequent year. Member States making use of this possibility shall inform the relevant farmers in due time about their right to withdraw from the scheme.

3. Each Member State shall ensure that an estimate of the amount of the payment referred to in Article 63 is made known to farmers in due time before the date for submitting applications or for withdrawal fixed by that Member State.

Article 63

Amount of the payment

1. Member States shall set the amount of the annual payment for each farmer participating in the small farmers scheme at one of the following levels:

- (a) an amount not exceeding 25 % of the national average payment per beneficiary, which shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of farmers who have declared eligible hectares, pursuant to Article 33(1) or Article 36(2), in 2015;
- (b) an amount corresponding to the national average payment per hectare multiplied by a figure corresponding to a number of hectares not exceeding five, to be set by the Member States. The national average payment per hectare shall be established by the Member States on the basis of the national ceiling set out in Annex II for calendar year 2019 and the number of eligible hectares declared in accordance with Article 33(1) or Article 36(2) in 2015.

The amount referred to in points (a) or (b) of the first subparagraph shall not be lower than EUR 500 and shall not be higher than EUR 1 250.

Where the application of points (a) and (b) of the first subparagraph results in an amount lower than EUR 500 or higher than EUR 1 250, the amount shall be rounded up or down, respectively, to that minimum or maximum amount.

2. By way of derogation from paragraph 1, a Member State may decide to grant participating farmers:

- (a) an amount equal to the total value of the payments to be allocated to the farmer each year under Titles III and IV; or
- (b) an amount equal to the total value of the payments to be allocated to the farmer in 2015 under Titles III and IV, that the Member State may adjust in subsequent years to proportionately take into account the changes in the national ceiling set out in Annex II.

The amount referred to in point (a) or (b) of the first subparagraph shall not be higher than an amount fixed by that Member State which shall be between EUR 500 and EUR 1 250.

Where the application of point (a) or (b) of the first subparagraph results in an amount lower than EUR 500, the Member State concerned may decide to round up this amount to EUR 500.

3. By way of derogation from paragraphs 1 and 2, in Cyprus, Croatia, Malta and Slovenia, the amount referred to in those paragraphs may be set at a value lower than EUR 500, but not less than EUR 200 or, in the case of Malta, not less than EUR 50.

Article 64

Special conditions

1. During the participation in the small farmers scheme, farmers shall:

- (a) keep at least a number of eligible hectares corresponding to the number of owned or leased-in payment entitlements held, or to the number of eligible hectares declared in 2015 in accordance with Article 36(2);
- (b) fulfil the minimum requirement provided for in point (b) of Article 10(1).

2. Payment entitlements activated in 2015 pursuant to Articles 32 and 33 by a farmer participating in the small farmers scheme shall be considered to be activated entitlements for the duration of the farmer's participation in that scheme.

The owned or leased-in payment entitlements held by the farmer during the participation in that scheme shall not be considered to be unused payment entitlements which are to revert to the national reserve or regional reserves in accordance with point (b) of Article 31(1).

In Member States applying Article 36, the eligible hectares declared in 2015 in accordance with Article 36(2) by a farmer participating in the small farmers scheme shall be considered to be declared for the duration of the participation of the farmer in that scheme.

3. By way of derogation from Article 34, payment entitlements held by farmers participating in the small farmers scheme shall not be transferable, except in the case of inheritance or anticipated inheritance.

Farmers who, by way of inheritance or anticipated inheritance, receive payment entitlements from a farmer participating in the small farmers scheme shall be eligible to participate in that scheme provided that they meet the requirements to benefit from the basic payment scheme and that they inherit all the payment entitlements held by the farmer from whom they receive the payment entitlements.

4. Where a Member State opts for the payment method laid down in point (a) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2), paragraphs 1 and 2 as well as the first subparagraph of paragraph 3 of this Article shall not apply.

5. In order to ensure legal certainty, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 setting out the conditions for participation in the scheme where the situation of the participating farmer has changed.

Article 65

Financial provisions

1. In order to finance the payment referred to in this Title, Member States shall deduct from the total amounts available for the respective payments the amounts to which the small farmers would be entitled:

- (a) under the basic payment scheme or the single area payment scheme referred to in Chapter 1 of Title III;
- (b) as a redistributive payment referred to in Chapter 2 of Title III;
- (c) as a payment for agricultural practices beneficial for the climate and the environment referred to in Chapter 3 of Title III;
- (d) as a payment for areas with natural constraints referred to in Chapter 4 of Title III;
- (e) as a payment for young farmers referred to in Chapter 5 of Title III; and
- (f) as coupled support referred to in Title IV.

In the case of Member States having opted to calculate the amount of the payment pursuant to point (a) of the first subparagraph of Article 63(2), where the sum of those amounts for an individual farmer exceeds the maximum amount that they have fixed, each amount shall be proportionately reduced.

2. The difference between the sum of all payments due under the small farmers scheme and the total amount financed in accordance with paragraph 1 shall be financed in one or more of the following ways:

- (a) by applying Article 30(7) in the relevant year;
- (b) by using the funds for financing the payment for young farmers laid down in Chapter 5 of Title III which are left unused in the relevant year;
- (c) by applying a linear reduction to all payments to be granted in accordance with Articles 32 or 36.

3. Except where a Member State has opted to set the amount of the annual payment pursuant to point (a) of the first subparagraph of Article 63(2), the elements on the basis of which the amounts referred to in paragraph 1 of this Article are established shall remain the same for the entire duration of the participation of the farmer in the small farmers scheme.

4. If the total amount of payments due under the small farmers scheme exceeds 10 % of the annual national ceiling set out in Annex II, Member States shall apply a linear reduction to the amounts to be paid in accordance with this Title in order to respect that percentage, unless they have set the amount of the payment in accordance with point (a) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2).

The same exception applies for Member States which have set the amount of the payment in accordance with point (b) of the first subparagraph of Article 63(2) without applying the third subparagraph of Article 63(2), whose national ceiling set out in Annex II for year 2019 is higher than for year 2015 and which apply the calculation method set out in Article 25(1) or in Article 36(2).

TITLE VI

NATIONAL RESTRUCTURING PROGRAMMES FOR THE COTTON SECTOR

Article 66

Use of the annual budget for the restructuring programmes

1. For Member States which have applied the first subparagraph of Article 4(1) of Regulation (EC) No 637/2008, the relevant annual budget available pursuant to Article 5(1) of that Regulation shall be transferred with effect from 1 January 2014 and shall constitute additional Union funds for measures under rural development programming financed under Regulation (EU) No 1305/2013.

2. For Member States which have applied the second subparagraph of Article 4(1) of Regulation (EC) No 637/2008, the relevant annual budget available pursuant to Article 5(1) of that Regulation shall be included with effect from 1 January 2017 in their national ceilings as set out in Annex II to this Regulation.

TITLE VII

FINAL PROVISIONS

CHAPTER 1

Notifications and emergency

Article 67

Notification requirements

1. In order to ensure the correct application of the rules set out in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 on the necessary measures regarding notifications to be made by Member States to the Commission for the purposes of this Regulation, for the purpose of checking, controlling, monitoring, evaluating and auditing direct payments or for the purpose of complying with requirements laid down in international agreements which have been concluded by a Council decision, including notification requirements under those agreements. In so doing, the Commission shall take into account the data needs and synergies between potential data sources.

Where appropriate, the information obtained may be transmitted or be made available to international organisations and the competent authorities of third countries and may be made public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets.

2. In order to make notifications referred to in paragraph 1 fast, efficient, accurate and cost-effective, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 laying down further rules on:

- (a) the nature and type of the information to be notified;
- (b) the categories of data to be processed and maximum retention periods;
- (c) access rights to the information or information systems made available;
- (d) the conditions of publication of the information.

3. The Commission shall adopt implementing acts laying down:

- (a) the methods of notification;
- (b) rules on providing the information necessary for the application of this Article;
- (c) arrangements for the management of the information to be notified, as well as rules on content, form, timing, frequency and deadlines of the notifications;
- (d) arrangements for transmitting, or making information and documents available, to the Member States, international organisations, the competent authorities in third countries, or the public, subject to the protection of personal data and the legitimate interest of farmers and undertakings in the protection of their business secrets.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

Article 68

Processing and protection of personal data

1. Member States and the Commission shall collect personal data for the purposes set out in Article 67(1). They shall not process this data in a way that is incompatible with those purposes.

2. Where personal data are processed for monitoring and evaluation purposes as referred to in Article 67(1), they shall be made anonymous and processed in aggregated form only.

3. Personal data shall be processed in accordance with Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which permits identification of data subjects for longer than is necessary for the purposes for which they were collected or for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.

4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1, and that in this respect they enjoy the rights set out in Directive 95/46/EC and Regulation (EC) No 45/2001, respectively.

5. This Article shall be subject to Articles 111 to 114 of Regulation (EU) No 1306/2013.

Article 69

Measures to resolve specific problems

1. In order to resolve specific problems, the Commission shall adopt implementing acts which are both necessary and justifiable in an emergency. Such implementing acts may derogate from provisions of this Regulation, to the extent and for such a period as is strictly necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 71(2).

2. Where duly justified imperative grounds of urgency so require, and in order to resolve such specific problems while ensuring the continuity of the direct payments system in the case of extraordinary circumstances, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 71(3).

3. Measures adopted under paragraph 1 or 2 shall remain in force for a period not exceeding twelve months. If after this period the specific problems referred to in those paragraphs persist, the Commission may, in order to establish a permanent solution, submit an appropriate legislative proposal.

4. The Commission shall inform the European Parliament and the Council of any measure adopted under paragraph 1 or 2 within two working days of its adoption.

CHAPTER 2

Delegations of powers and implementing provisions

Article 70

Exercise of the delegation

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 shall be conferred on the Commission for a period of seven years from 1 January 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 2, Article 4(3), Article 6(3), Article 7(3), Article 8(3), Article 9(5), Article 20(6), Article 35, Article 36(6), Article 39(3), Article 43(12), Article 44(5), Article 45(5) and (6), Article 46(9), Article 50(11), Article 52(9), Article 57(3), Article 58(5), Article 59(3), Article 64(5), Article 67(1) and (2) and Article 73 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 71

Committee procedure

1. The Commission shall be assisted by a Committee called the "Committee for Direct Payments". That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of acts referred to in Article 24(11), Article 31(2) and Article 67(3), where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

CHAPTER 3

Transitional and final provisions

Article 72

Repeals

1. Regulation (EC) No 637/2008 is repealed with effect from 1 January 2014.

However, it shall continue to apply until 31 December 2017 in respect of Member States which have exercised the option laid down in the second subparagraph of Article 4(1) of that Regulation.

2. Regulation (EC) No 73/2009 is repealed.

Without prejudice to paragraph 3, references to the repealed Regulation shall be construed as references to this Regulation or Regulation (EU) No 1306/2013 and shall be read in accordance with the correlation table set out in Annex XI to this Regulation.

3. The references made in this Regulation to Regulations (EC) No 73/2009 and (EC) No 1782/2003 shall be understood as being made to those Regulations such as they were in force before their repeal.

Article 73

Transitional rules

In order to ensure a smooth transition from the arrangements provided for in Regulation (EC) No 73/2009 to those laid down in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 concerning the necessary measures to protect any acquired rights and legitimate expectations of farmers.

Article 74

Entry into force and application

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

It shall apply from 1 January 2015.

However, Article 8, Article 9(6), Article 11(6), Article 14, Article 16, Article 21(2) and (3), Article 22(2), the first subparagraph of Article 23(1), Article 23(6), Article 24(10), Article 29, the first subparagraph of Article 36(1), Article 41(1), Article 42(1), Article 43(8) and (13), the fifth subparagraph of Article 45(2), Article 46(2) and (8), Article 49(1), Article 51(1), Article 53, Article 54, Article 66(1), Articles 67 and 70 and Article 72(1) shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 17 December 2013.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

V. JUKNA

ANNEX I

List of support schemes

Sector	Legal base	Notes
Basic payment scheme	Title III, Chapter 1, Sections 1, 2, 3 and 5 of this Regulation	Decoupled payment
Single area payment scheme	Article 36 of this Regulation	Decoupled payment
Redistributive payment	Title III, Chapter 2 of this Regulation	Decoupled payment
Payment for agricultural practices beneficial for the climate and the environment	Title III, Chapter 3 of this Regulation	Decoupled payment
Payment for areas with natural constraints	Title III, Chapter 4 of this Regulation	Decoupled payment
Payment for young farmers	Title III, Chapter 5 of this Regulation	Decoupled payment
Voluntary coupled support	Title IV, Chapter 1 of this Regulation	
Crop-specific payment for cotton	Title IV, Chapter 2 of this Regulation	Area payment
Small farmers scheme	Title V of this Regulation	Decoupled payment
Posei	Chapter IV of Regulation (EU) No 228/2013	Direct payments under measures established in the programmes
Aegean islands	Chapter IV of Regulation (EU) No 229/2013	Direct payments under measures established in the programmes

ANNEX II

National ceilings referred to in Article 6

(in thousands EUR)

Calendar year	2015	2016	2017	2018	2019 and the subsequent year
Belgium	536 076	528 124	520 170	512 718	505 266
Bulgaria	721 251	792 449	793 226	794 759	796 292
Czech Republic	874 484	873 671	872 830	872 819	872 809
Denmark	916 580	907 108	897 625	889 004	880 384
Germany	5 144 264	5 110 446	5 076 522	5 047 458	5 018 395
Estonia	121 870	133 701	145 504	157 435	169 366
Ireland	1 215 003	1 213 470	1 211 899	1 211 482	1 211 066
Greece	2 039 122	2 015 116	1 991 083	1 969 129	1 947 177
Spain	4 842 658	4 851 682	4 866 665	4 880 049	4 893 433
France	7 553 677	7 521 123	7 488 380	7 462 790	7 437 200
Croatia (*)	130 550	149 200	186 500	223 800	261 100
Italy	3 902 039	3 850 805	3 799 540	3 751 937	3 704 337
Cyprus	50 784	50 225	49 666	49 155	48 643
Latvia	195 649	222 363	249 020	275 887	302 754
Lithuania	417 890	442 510	467 070	492 049	517 028
Luxembourg	33 603	33 545	33 486	33 459	33 431
Hungary	1 271 593	1 270 410	1 269 187	1 269 172	1 269 158
Malta	5 127	5 015	4 904	4 797	4 689
Netherlands	780 815	768 340	755 862	744 116	732 370
Austria	693 065	692 421	691 754	691 746	691 738
Poland	2 987 267	3 004 501	3 021 602	3 041 560	3 061 518
Portugal	565 816	573 954	582 057	590 706	599 355
Romania	1 629 889	1 813 795	1 842 446	1 872 821	1 903 195
Slovenia	137 987	136 997	136 003	135 141	134 278
Slovakia	380 680	383 938	387 177	390 781	394 385
Finland	523 333	523 422	523 493	524 062	524 631
Sweden	696 890	697 295	697 678	698 723	699 768
United Kingdom	3 555 915	3 563 262	3 570 477	3 581 080	3 591 683

(*) For Croatia, the national ceiling for calendar year 2020 shall be EUR 298 400 000, for 2021 shall be EUR 335 700 000 and for 2022 shall be EUR 373 000 000.

ANNEX III

Net ceilings referred to in Article 7

(in million EUR)

Calendar year	2015	2016	2017	2018	2019 and the subsequent year
Belgium	536,1	528,1	520,2	512,7	505,3
Bulgaria	723,6	795,1	795,8	797,4	798,9
Czech Republic	874,5	873,7	872,8	872,8	872,8
Denmark	916,6	907,1	897,6	889,0	880,4
Germany	5 144,3	5 110,4	5 076,5	5 047,5	5 018,4
Estonia	121,9	133,7	145,5	157,4	169,4
Ireland	1 215,0	1 213,5	1 211,9	1 211,5	1 211,1
Greece	2 227,0	2 203,0	2 178,9	2 157,0	2 135,0
Spain	4 903,6	4 912,6	4 927,6	4 941,0	4 954,4
France	7 553,7	7 521,1	7 488,4	7 462,8	7 437,2
Croatia (*)	130,6	149,2	186,5	223,8	261,1
Italy	3 902,0	3 850,8	3 799,5	3 751,9	3 704,3
Cyprus	50,8	50,2	49,7	49,2	48,6
Latvia	195,6	222,4	249,0	275,9	302,8
Lithuania	417,9	442,5	467,1	492,0	517,0
Luxembourg	33,6	33,5	33,5	33,5	33,4
Hungary	1 271,6	1 270,4	1 269,2	1 269,2	1 269,2
Malta	5,1	5,0	4,9	4,8	4,7
Netherlands	780,8	768,3	755,9	744,1	732,4
Austria	693,1	692,4	691,8	691,7	691,7
Poland	2 987,3	3 004,5	3 021,6	3 041,6	3 061,5
Portugal	566,0	574,1	582,2	590,9	599,5
Romania	1 629,9	1 813,8	1 842,4	1 872,8	1 903,2
Slovenia	138,0	137,0	136,0	135,1	134,3
Slovakia	380,7	383,9	387,2	390,8	394,4
Finland	523,3	523,4	523,5	524,1	524,6
Sweden	696,9	697,3	697,7	698,7	699,8
United Kingdom	3 555,9	3 563,3	3 570,5	3 581,1	3 591,7

(*) For Croatia, the net ceiling for calendar year 2020 shall be EUR 298 400 000, for 2021 shall be EUR 335 700 000 and for 2022 shall be EUR 373 000 000.

ANNEX IV

Limits for the adjustment for the thresholds, referred to in Article 10(2)

Member State	Limit for the EUR threshold (Article 10(1)(a))	Limit for the hectare threshold (Article 10(1)(b))
Belgium	400	2
Bulgaria	200	0,5
Czech Republic	200	5
Denmark	300	5
Germany	300	4
Estonia	100	3
Ireland	200	3
Greece	400	0,4
Spain	300	2
France	300	4
Croatia	100	1
Italy	400	0,5
Cyprus	300	0,3
Latvia	100	1
Lithuania	100	1
Luxemburg	300	4
Hungary	200	0,3
Malta	500	0,1
Netherlands	500	2
Austria	200	2
Poland	200	0,5
Portugal	200	0,3
Romania	200	0,3
Slovenia	300	0,3
Slovakia	200	2
Finland	200	3
Sweden	200	4
United Kingdom	200	5

ANNEX V

Financial provisions applying to Bulgaria and Romania referred to in Articles 10, 16 and 18

- A. Amounts for applying point (a) of Article 10(1) and for calculating the national ceilings for payments referred to in Article 16 in 2015:

Bulgaria: EUR 790 909 000

Romania: EUR 1 783 426 000

- B. Total amount of complementary national direct payments to the basic payment scheme referred to in Article 18(1) in 2015:

Bulgaria: EUR 69 657 000

Romania: EUR 153 536 000

- C. Total amount of complementary national direct payments to the crop-specific payment for cotton referred to in Article 18(2) in 2015:

Bulgaria: EUR 258 952

ANNEX VI

Financial provisions applying to Croatia referred to in Articles 10 and 19

A. Amount for applying point (a) of Article 10(1):

EUR 373 000 000

B. Total amounts of complementary national direct payments referred to in Article 19(3):

(in thousands EUR)

2015	2016	2017	2018	2019	2020	2021
242 450	223 800	186 500	149 200	111 900	74 600	37 300

ANNEX VII

Maximum amounts to be added to the amounts set out in Annex II in accordance with Article 20(2)*(in thousands EUR)*

2015	2016	2017	2018	2019	2020	2021	2022
3 360	3 840	4 800	5 760	6 720	7 680	8 640	9 600

ANNEX VIII

Average size of agricultural holding referred to in Article 41(4)

Member State	Average size of agricultural holding (in hectares)
Belgium	29
Bulgaria	6
Czech Republic	89
Denmark	60
Germany	46
Estonia	39
Ireland	32
Greece	5
Spain	24
France	52
Croatia	5,9
Italy	8
Cyprus	4
Latvia	16
Lithuania	12
Luxemburg	57
Hungary	7
Malta	1
Netherlands	25
Austria	19
Poland	6
Portugal	13
Romania	3
Slovenia	6
Slovakia	28
Finland	34
Sweden	43
United Kingdom	54

ANNEX IX

List of equivalent practices referred to in Article 43(3)

I. Practices equivalent to crop diversification:

(1) Crop diversification

Requirement: at least three crops, the main crop covering a maximum of 75 %, and any one or more of the following applying:

- there are at least four crops,
- lower maximum thresholds apply,
- there is a more appropriate selection of crops, such as, for example, leguminous, protein crops, crops not requiring irrigation or pesticide treatments, as appropriate,
- regional varieties of old, traditional or endangered crop types are included on at least 5 % of the rotated area.

(2) Crop rotation

Requirement: at least three crops, the main crop covering a maximum of 75 %, and any one or both of the following applying:

- a more environmentally beneficial multiannual sequence of crops and/or fallow is followed,
- there are at least four crops.

(3) Winter soil cover (*)

(4) Catch crops (*)

II. Practices equivalent to maintenance of permanent grassland:

(1) Management of meadows or pastures

Requirement: maintenance of permanent grassland and any one or more of the following:

- Cutting regime or appropriate mowing (dates, methods, limits)
- Maintenance of landscape features on permanent grassland and control of scrub
- Specified grass varieties and/or seeding regime for renewal depending on the grassland type, with no destruction of high nature value
- Evacuation of forage or hay
- Appropriate management for steep slopes
- Fertiliser regime
- Pesticide restrictions

(2) Extensive grazing systems

Requirement: maintenance of permanent grassland and any one or more of the following:

- Extensive grazing (timing, maximum stocking density)

(*) Practices subject to the calculation referred to in point (c) of Article 43(12)

- Shepherding or mountain pastoralism
- Using local or traditional breeds for grazing the permanent grassland

III. Practices equivalent with ecological focus area:

Requirement: application of any of the following practices on at least the percentage of the arable land set pursuant to Article 46(1):

- (1) Ecological set-aside
 - (2) Creation of "buffer zones" for high nature value areas, Natura 2000 or other biodiversity protection sites, including along hedgerows and water courses
 - (3) Management of uncultivated buffer strips and field margins (cutting regime, local or specified grass varieties and/or seeding regime, re-seeding with regional varieties, no use of pesticides, no disposal of manure and/or mineral fertilisers, no irrigation, no soil sealing)
 - (4) Borders, in-field strips and patches managed for wildlife or specific fauna (herbaceous border, protection of nests, wildflower strips, local seed mix, unharvested crops)
 - (5) Management (pruning, trimming, dates, methods, restoration) of landscape features (trees, hedgerows, riparian woody vegetation, stone walls (terraces), ditches, ponds)
 - (6) Keeping arable peaty or wet soils under grass (with no use of fertilisers and no use of plant protection products)
 - (7) Production on arable land with no use of fertiliser (mineral fertiliser and manure) and/or plant protection products, and not irrigated, not sown with the same crop two years in a row and on a fixed place (*)
 - (8) Conversion of arable land into permanent grassland extensively used
-

ANNEX X

Conversion and weighting factors referred to in Article 46(3)

Features	Conversion factor	Weighting factor	Ecological focus area
Land lying fallow			
Terraces			
Landscape features			
Buffer strips			
Hectares of agro-forestry			
Strips of eligible hectares along forest edges			
Areas with short rotation coppice			
Afforested areas referred to in Article 32(2)(b)(ii)			
Areas with catch crops or green cover			
Areas with nitrogen-fixing crops			

ANNEX XI

Correlation table
referred to in Article 72(2)

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 1	Article 1	—
Article 2	Article 4	—
Article 3	Article 5	—
Article 4(1)	—	Article 91
Article 4(2)	—	Article 95
Article 5	—	Article 93
Article 6(1)	—	Article 94
Article 6(2)	—	—
Article 7	—	—
Article 8	Article 7	—
Article 9	—	—
Article 10	—	—
Article 10a	—	—
Article 10b	—	—
Article 10c	—	—
Article 10d	—	—
Article 11	Article 8	Article 26(1) and (2)
Article 11(3)	Article 8(2)	—
Article 11a	Article 8(3)	—
Article 12(1) and (2)	—	Article 12
Article 12(3)	—	Article 14
Article 12(4)	—	—
Article 13	—	Article 13(2)
Article 14	—	Article 67
Article 15	—	Article 68(1) and (2)
Article 16	—	Article 69
Article 17	—	Article 70
Article 18	—	Article 71
Article 19	—	Article 72

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 20	—	Article 74(1), (2) and (3)
Article 21	—	Article 74(4)
Article 22	—	Article 96
Article 23	—	Article 97
Article 24	—	Article 99
Article 25	—	Article 100
Article 26	—	Article 61
Article 27(1)	—	Article 102(3)
Article 27(2)	—	Article 47
Article 27(3)	—	Article 68(3)
Article 28(1)	Article 10	—
Article 28(2)	Article 9(3)	—
Article 28(3)	Article 31(1)(a) (i) and (ii)	—
Article 29	—	Article 75
Article 30	—	Article 60
Article 31	—	Article 2(2)
Article 32	Article 15	—
Article 33	—	—
Article 34 (2)	Article 32(2) and (4)	—
Article 35	Article 33	—
Article 36	—	—
Article 37	Article 12	—
Article 38	—	—
Article 39(1)	Article 32(6)	—
Article 39(2)	Article 35(3)	—
Article 40(1)	Article 6(1)	—
Article 41(1)	Article 30(1)	—
Article 41(2)	Article 30(3) and (6)	—
Article 41(3)	Article 30(3) and (7)(a)	—
Article 41(4)	—	—
Article 41(5)	Article 30(10)	—
Article 41(6)	—	—
Article 42	Article 31(1)(b)	—
Article 43(1)	Article 34(1), (2) and (3)	—

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 43(2)	—	—
Article 43(3)	Article 34(4)	—
Article 44	—	—
Article 45	—	—
Article 46	—	—
Article 47	—	—
Article 48	—	—
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Article 51	—	—
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Article 56	—	—
Article 57	—	—
Article 57a	Article 20 and Annex VII	—
Article 58	—	—
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Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 75	—	—
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Article 79	—	—
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Article 88	Article 56	—
Article 89	Article 57	—
Article 90	Article 58	—
Article 91	Article 59	—
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Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 109	—	—
Article 110	—	—
Article 111	—	—
Article 112	—	—
Article 113	—	—
Article 114	—	—
Article 115	—	—
Article 116	—	—
Article 117	—	—
Article 118	—	—
Article 119	—	—
Article 120	—	—
Article 121	Articles 16 and 17	—
Article 121a	—	Article 98, second subparagraph
Article 122	—	—
Article 123	—	—
Article 124(1) to (5), (7) and (8)	—	—
Article 124(6)	—	Article 98, first subparagraph
Article 125	—	—
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Article 127	—	—
Article 128	—	—
Article 129	—	—
Article 130	—	—
Article 131	—	—
Article 132	Articles 18 and 19	—
Article 133	—	—
Article 133a	Article 37	—
Article 134 (deleted)	—	—
Article 135 (deleted)	—	—
Article 136	—	—
Article 137	—	—
Article 138	Article 3	—
Article 139	Article 13	—
Article 140	Article 67	—

Regulation (EC) No 73/2009	This Regulation	Regulation (EU) No 1306/2013
Article 141	Article 71	—
Article 142(a) to (q) and (s)	Article 70	—
Article 142(r)	Article 69	—
Article 143	—	—
Article 144	—	—
Article 145	—	—
Article 146	Article 72	—
Article 146a	—	—
Article 147	Article 73	—
Article 148	—	—
Article 149	Article 74	—
Annex I	Annex I	—
Annex II	—	Annex II
Annex III	—	Annex II
Annex IV	Annex III	—
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Annex VII	Annex IV	—
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Annex XI	—	—
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**REGULATION (EU) No 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013**

**establishing a common organisation of the markets in agricultural products and repealing Council
Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007**

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 the first subparagraph of Article 42 and Article 43(2) 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 Court of Auditors ⁽¹⁾,

Having regard to the opinions of the European Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the ordinary legislative procedure ⁽⁴⁾,

Whereas:

(1) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future" sets out potential challenges, objectives and orientations for the Common Agricultural Policy ("the CAP") after 2013. In the light of the debate on that Communication, the CAP should be reformed with effect from 1 January 2014. That reform should cover all the main instruments of the CAP, including Council Regulation (EC) No 1234/2007 ⁽⁵⁾. In view of the scope of the reform, it is appropriate to repeal that Regulation and to replace it with a new regulation on the common organisation of the markets in agricultural products. The reform should also, as far as possible, harmonise, streamline and simplify the provisions, particularly

those covering more than one agricultural sector, including by ensuring that non-essential elements of measures may be adopted by the Commission by way of delegated acts.

(2) This Regulation should contain all the basic elements of the common organisation of the markets in agricultural products.

(3) This Regulation should apply to all agricultural products listed in Annex I to the Treaty on the European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU) (together, "the Treaties") in order to ensure the existence of a common organisation of the market for all such products, as required by Article 40(1) TFEU.

(4) It should be clarified that Regulation (EU) No 1306/2013 of the European Parliament and of the Council ⁽⁶⁾ and the provisions adopted pursuant to it should in principle apply to the measures set out in this Regulation. In particular, Regulation (EU) No 1306/2013 lays down provisions guaranteeing compliance with obligations laid down by provisions relating to the CAP, including checks and the application of administrative measures and administrative penalties in case of non-compliance, and rules related to the lodging and releasing of securities and the recovery of undue payments.

(5) Pursuant to Article 43(3) TFEU, the Council is to adopt measures on fixing prices, levies, aid and quantitative limitations. In the interest of clarity, where Article 43(3) TFEU applies, this Regulation should explicitly refer to the fact that measures will be adopted by the Council on that legal basis.

(6) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

⁽¹⁾ Opinion of 8 March 2012 (not yet published in the Official Journal).

⁽²⁾ OJ C 191, 29.6.2012, p. 116, and OJ C 44, 15.2.2013, p. 158.

⁽³⁾ OJ C 225, 27.7.2012, p. 174.

⁽⁴⁾ Position of the European Parliament of 20 November 2013 (not yet published in the Official Journal).

⁽⁵⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

⁽⁶⁾ Regulation (EU) No 1306/2013 of the European Parliament and of Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (See page 549 of this Official Journal).

- (7) Certain definitions concerning certain sectors should be set out in this Regulation. In order to take into account the specific characteristics of the rice sector, the power to adopt certain acts should be delegated to the Commission in respect of amending the definitions concerning the rice sector to the extent necessary to update them in the light of market developments.
- (8) This Regulation refers to the description of products and contains references to the headings or subheadings of the combined nomenclature. Amendments to the Common Customs Tariff nomenclature may necessitate consequential technical adjustments to this Regulation. In order to take into account such amendments, the power to adopt certain acts should be delegated to the Commission in respect of making the necessary technical adjustments. In the interests of clarity and simplicity, Council Regulation (EEC) No 234/79 ⁽¹⁾, which currently provides for such a power, should be repealed and the power integrated into this Regulation.
- (9) Marketing years should be fixed for cereals, rice, sugar, dried fodder, seeds, wine, olive oil and table olives, flax and hemp, fruit and vegetables, processed fruit and vegetables, bananas, milk and milk products, and silkworms, and adapted as far as possible to the biological production cycles of each of those products.
- (10) In order to stabilise the markets and to ensure a fair standard of living for the agricultural community, a differentiated system of market support for the different sectors has been developed and direct support schemes have been introduced, taking into account the different needs in each of these sectors on the one hand and the interdependence between different sectors on the other. Those measures take the form of public intervention or the payment of aid for private storage. There continues to be a need to maintain market support measures whilst streamlining and simplifying them.
- (11) Union scales for the classification, identification and presentation of carcasses in the beef and veal, pigmeat and sheepmeat and goatmeat sectors should be fixed for the purpose of recording prices and applying the intervention arrangements in those sectors. Moreover, such Union scales pursue the objective of improving market transparency.
- (12) For the sake of clarity and transparency, the provisions on public intervention should be made subject to a common structure, whilst maintaining the policy pursued in each sector. For that purpose, it is appropriate to distinguish between reference thresholds and intervention prices and to define the latter. In doing so, it is particularly important to clarify that only intervention prices for public intervention correspond to the applied administered prices referred to in the first sentence of paragraph 8 of Annex 3 to the WTO Agreement on Agriculture (i.e. market price support). In this context, it should be understood that market intervention can take the form of public intervention, as well as of other forms of intervention that do not use ex-ante established price indications.
- (13) As appropriate to each sector concerned in the light of the practice and experience under previous common organisations of the markets (CMOs), the system of public intervention should be available during certain periods of the year and should, during those periods, either be open on a permanent basis or be opened depending on market prices.
- (14) Public intervention price should consist of a fixed price for certain quantities for some products and in other cases should depend on tendering, reflecting the practice and experience under previous CMOs.
- (15) This Regulation should provide for the possibility of disposal of products bought in public intervention. Such measures should be taken in a way that avoids market disturbances and that ensures equal access to goods and equal treatment of purchasers.
- (16) The existing scheme for food distribution to the most deprived in the Union adopted under the CAP should be the subject of a separate Regulation adopted to reflect the social cohesion objectives of that scheme. Provision should nevertheless be made in this Regulation to allow for the disposal of products held in public intervention by making them available for use in that scheme.
- (17) To achieve the aim of balancing the market and stabilising the market prices, it may be necessary to grant aid for private storage of specific agricultural products. In order to provide for market transparency, the power to adopt certain acts should be delegated to the Commission in respect of laying down the conditions under which it may decide to grant private storage aid, taking into account the market situation.
- (18) In order to ensure that products bought in under public intervention or subject to aid for private storage are suitable for long-term storage and are of sound, fair and marketable quality, and in order to take into account the specific characteristics of the different sectors for the purposes of ensuring the cost-effective operation of public intervention and private storage, the power to adopt certain acts should be delegated to

⁽¹⁾ Council Regulation (EEC) No 234/79 of 5 February 1979 on the procedure for adjusting the Common Customs Tariff nomenclature used for agricultural products (OJ L 34, 9.2.1979, p. 2).

- the Commission in respect of laying down the requirements and conditions to be met by those products concerning their quality and eligibility, in addition to the requirements laid down in this Regulation.
- (19) In order to take account of the specific characteristics of the cereals and paddy rice sectors, the power to adopt certain acts should be delegated to the Commission in respect of laying down the quality criteria as regards buying-in and sales of those products.
- (20) In order to ensure appropriate storage capacity and the efficiency of the public intervention system in terms of cost-effectiveness, distribution and access for operators, and in order to maintain the quality of products bought in under public intervention for their disposal at the end of the storage period, the power to adopt certain acts should be delegated to the Commission in respect of the requirements to be fulfilled by storage places for all products subject to public intervention, rules on the storage of products inside and outside the Member State responsible for them and their treatment as regards customs duties and any other amounts to be granted or levied under the CAP.
- (21) In order to ensure that private storage has the desired effect on the market, the power to adopt certain acts should be delegated to the Commission in respect of rules and conditions applicable where the quantity stored is lower than the contracted quantity; the conditions for granting an advance payment; and the conditions applicable to the re-marketing and disposal of products covered by private storage contracts.
- (22) In order to ensure the proper functioning of the public intervention and private storage systems, the power to adopt certain acts should be delegated to the Commission in respect of providing for the use of tendering procedures, and laying down additional conditions to be fulfilled by operators and a requirement for them to lodge a security.
- (23) In order to take account of technical developments and of the needs of the beef and veal, pigmeat and sheepmeat and goatmeat sectors, as well as of the need to standardise the presentation of the different products for the purposes of improving market transparency, price recording and the application of the market intervention measures, the power to adopt certain acts should be delegated to the Commission in respect of adapting and updating Union scales for the classification of carcasses in those sectors, as well as in respect of laying down certain related additional provisions and derogations.
- (24) The consumption of fruit and vegetables, as well as of milk and milk products by school children should be encouraged with a view to durably increasing the share of those products in the diets of children at the stage when their eating habits are being formed, thereby contributing to the achievement of the objectives of the CAP in particular stabilising markets and ensuring the availability of both current and future supplies. Union aid to finance or co-finance the supply to children in educational establishments of such products should therefore be promoted.
- (25) In order to ensure a sound budgetary management of the Union school fruit and vegetables scheme and school milk scheme, appropriate provisions for each one should be established. Union aid should not be used to replace funding for any existing national school fruit and vegetables schemes and school milk schemes. In the light of budgetary constraints, Member States should nonetheless be able to replace their financial contribution to those schemes with contributions from the private sector. In order to make their school fruit and vegetables schemes effective, accompanying measures may be necessary for which they should be allowed to grant national aid. Member States participating in the schemes should publicise the subsidising role of the Union aid.
- (26) In order to promote the healthy eating habits of children and to ensure that the aid is targeted at children in regular attendance at educational establishments administered or recognised by Member States, the power to adopt certain acts should be delegated to the Commission in respect of the school fruit and vegetables scheme concerning the additional criteria related to the targeting of aid, the approval and selection of aid applicants and the drawing-up of national or regional strategies and on accompanying measures.
- (27) In order to ensure the efficient and targeted use of Union funds, the power to adopt certain acts should be delegated to the Commission in respect of the school fruit and vegetables scheme concerning the method for reallocating aid between Member States on the basis of requests for aid applications received, the costs eligible for Union aid, including the possibility of fixing an overall ceiling for such costs, and the obligation for Member States to monitor and evaluate the effectiveness of their school fruit and vegetables schemes.
- (28) In order to promote awareness of the school fruit and vegetables scheme, the power to adopt certain acts should be delegated to the Commission in respect of requiring participating Member States with a school fruit and vegetables scheme to publicise the subsidising role of the Union aid.

- (29) In order to take into account the evolution in consumption patterns for dairy products, the innovations and developments on the dairy products market, the availability of products on the different markets of the Union and nutritional aspects, the power to adopt certain acts should be delegated to the Commission in respect of the school milk scheme in respect of the products that are eligible for the scheme, the Member States' national or regional strategies, including accompanying measures where applicable, and the monitoring and evaluation of the scheme.
- (30) In order to ensure that the appropriate beneficiaries and applicants qualify for Union aid and that it is used efficiently and effectively, the power to adopt certain acts should be delegated to the Commission in respect of the rules on the beneficiaries and applicants eligible for the aid, the requirement for applicants to be approved by Member States, and the use of dairy products in the preparation of meals in educational establishments.
- (31) In order to ensure that aid applicants respect their obligations, the power to adopt certain acts should be delegated to the Commission in respect of the requirement to lodge a security where an advance of aid is paid.
- (32) In order to promote awareness of the school milk scheme, the power to adopt certain acts should be delegated to the Commission in respect of the conditions in accordance with which Member States are to publicise their participation in that scheme and the fact that it is subsidised by the Union.
- (33) In order to ensure that the aid is reflected in the price of the products, the power to adopt certain acts should be delegated to the Commission in respect of the establishment of price monitoring under the school milk scheme.
- (34) Union financing is required to encourage recognised producer organisations, associations of producer organisations or interbranch organisations to draw up work programmes for the purpose of improving the production and marketing of olive oil and table olives. In that context, this Regulation should provide for Union support to be allocated in accordance with the priorities given to the activities undertaken within the respective work programmes. However, co-financing should be reduced in order to improve the efficiency of such programmes.
- (35) In order to ensure the efficient and effective use of the Union aid granted to producer organisations, associations of producer organisations or interbranch organisations in the olive oil and table olives sector and in order to improve the production quality of olive oil and table olives, the power to adopt certain acts should be delegated to the Commission in respect of the specific measures that can be financed by the Union aid and the activities and costs that cannot be so financed; the minimum allocation of Union financing to specific areas; the requirement to lodge a security; and the criteria to be taken into account by Member States in the selection and approval of work programmes.
- (36) This Regulation should make a distinction between fruit and vegetables on the one hand, comprising fruit and vegetables for direct consumption and fruit and vegetables intended for processing, and processed fruit and vegetables on the other hand. Rules on operational funds, operational programmes and Union financial assistance should only apply to the first category, and both types of fruit and vegetables within that category should be treated in a similar way.
- (37) The production of fruit and vegetables is unpredictable and the products are perishable. Even limited surpluses can significantly disturb the market. Therefore, measures for crisis management should be established and those measures should continue to be integrated into operational programmes.
- (38) The production and marketing of fruit and vegetables should fully take into account environmental concerns, including cultivation practices, management of waste materials and disposal of products withdrawn from the market, in particular as regards protection of water quality, maintenance of biodiversity and the upkeep of the countryside.
- (39) Support for setting up producer groups should be provided for all sectors in all Member States under rural development policy. The specific support in the fruit and vegetables sector should therefore be discontinued.
- (40) In order to give producer organisations and their associations in the fruit and vegetables sector greater responsibility for their financial decisions and to direct the public resources assigned to them towards future requirements, terms should be set out for the use of those resources. Joint financing of operational funds set up by producer organisations and their associations is an appropriate solution. Additional scope for financing should be permitted in particular cases. Operational funds should only be used to finance operational programmes in the fruit and vegetables sector. In order to control Union expenditure, there should be a cap on assistance granted to producer organisations and their associations that establish operational funds.

- (41) In regions where the organisation of production in the fruit and vegetables sector is weak, granting of additional national financial contributions should be allowed. In the case of Member States which are at a particular disadvantage with regard to structures, such contributions should be reimbursed by the Union.
- (42) In order to ensure an efficient, targeted and sustainable support of producer organisations and their associations in the fruit and vegetables sector, the power to adopt certain acts should be delegated to the Commission in respect of operational funds and operational programmes, the national framework and national strategy for operational programmes concerning the obligation to monitor and evaluate the effectiveness of the national framework and the national strategies; Union financial assistance; crisis prevention and management measures; and national financial assistance.
- (43) It is important to provide for support measures in the wine sector which strengthen competitive structures. While those measures should be defined and financed by the Union, it should be left to Member States to select an appropriate set of measures to meet the needs of their regional bodies, taking into account their particularities, where necessary, as well as integrate them into national support programmes. Member States should be responsible for the implementation of such programmes.
- (44) One key measure eligible for national support programmes should be the promotion and marketing of Union wines. Support for innovation can increase the marketability and competitiveness of Union grapevine products. Restructuring and conversion activities should continue to be covered on account of their positive structural effects on the wine sector. Support should also be available for investments in the wine sector which are geared towards improving the economic performance of the enterprises. Support for by-product distillation should be a measure available to Member States which desire to use such an instrument to ensure the quality of wine, while protecting the environment.
- (45) Preventive instruments such as harvest insurance, mutual funds and green harvesting should be eligible for support under the wine support programmes so as to encourage a responsible approach to crisis situations.
- (46) The provisions on support to vine-growers by way of allocation of payment entitlements as decided by Member States were made definitive from the financial year 2015 under Article 103n of Regulation (EC) No 1234/2007 and subject to the conditions set out in that provision.
- (47) In order to ensure that Member States' wine support programmes meet their objectives and that there is an efficient and effective use of the Union funds, the power to adopt certain acts should be delegated to the Commission in respect of: rules on the responsibility for expenditure between the date of receipt by the Commission of the support programmes and modifications to support programmes, and their date of applicability; rules on the content of support programmes and the expenditure, administrative and personnel costs and operations that may be included in Member States' support programmes and the conditions for, and the possibility to make, payments through intermediaries in the case of support for harvest insurance; rules on the requirement to lodge a security where an advance payment is made; rules on the use of certain terms; rules on the fixing of a ceiling for expenditure on the replanting of vineyards for health or phytosanitary reasons; rules on the avoidance of double funding of projects; rules under which producers are to withdraw the by-products of winemaking, and on exceptions to that obligation in order to avoid additional administrative burden, and rules for the voluntary certification of distillers; and rules allowing Member States to establish conditions for the proper functioning of support measures.
- (48) Beekeeping is characterised by the diversity of production conditions and yields and the dispersion and variety of economic operators, both at the production and marketing stages. Moreover, in view of the increasing incidence on bee health of certain types of hive invasions, and in particular of the spread of varroasis in several Member States in recent years and the problems which that disease causes to honey production, action by the Union continues to be necessary as varroasis cannot be completely eradicated and is to be treated with approved products. Given such circumstances, and in order to improve the production and marketing of apiculture products in the Union, national programmes for the sector should be drawn up every three years with a view to improving the general conditions for the production and marketing of apiculture products. Those national programmes should be partly financed by the Union.
- (49) The measures which may be included in the apiculture programmes should be specified. In order to ensure that the Union aid scheme is adapted to the latest developments and that the measures covered are effective in improving the general conditions for the production and marketing of apiculture products, the power to adopt certain acts should be delegated to the Commission in respect of updating the list of measures, by adapting existing measures or adding new measures.

- (50) In order to ensure the effective and efficient use of Union funds for apiculture, the power to adopt certain acts should be delegated to the Commission in respect of the avoidance of double funding between Member States' apiculture programmes and rural development programmes and the basis of the allocation of the Union's financial contribution to each participating Member State.
- (51) In accordance with Council Regulation (EC) No 73/2009 ⁽¹⁾, the hops area payment was decoupled from 1 January 2010. In order to allow the hop producer organisations to continue their activities as before, a specific provision should be made for equivalent amounts to be used in the Member State concerned for the same activities. In order to ensure that the aids finance the aims of producer organisations, as set out in this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of aid applications, rules on eligible hop areas and the calculation of aids.
- (52) Union aid for silkworm rearing should be decoupled and integrated into the direct payments system following the approach taken for aids in other sectors.
- (53) The aid for Union-produced skimmed milk and skimmed-milk powder intended for use as a feedingstuff and for processing into casein and caseinates has not proved effective in supporting the market and should therefore be discontinued, along with the rules concerning the use of casein and caseinates in the manufacture of cheese.
- (54) The decision to end the transitional prohibition on planting vines at Union level is justified by the attainment of the main objectives of the reform of the Union wine market organisation in 2008, in particular by the end of the long-standing structural surplus of wine production and the progressive improvement of competitiveness and market orientation of the wine sector in the Union. Such positive developments have resulted from a marked decrease of vine areas across the Union, the exit of less competitive producers and the phasing-out of certain market support measures removing the incentive for investments without economic viability. The reduction of supply capacity and the support for structural measures and promotion of wine exports have enabled a better adaptation to decreasing demand at Union level, resulting from a progressive decrease in consumption in traditional wine-producing Member States.
- (55) However, the perspectives of progressive growth of demand at world market level provide an incentive to increase supply capacity, and therefore to plant new vines, over the next decade. While the key objective of increasing the competitiveness of the Union wine sector should be pursued in order not to lose market share in the world market, an excessively rapid increase in new vine plantings in response to forecasted development in international demand may lead again to a situation of excessive supply capacity in the medium-term, with possible social and environmental effects in specific wine production areas. In order to ensure an orderly growth of vine plantings during the period between 2016 and 2030, a new system for the management of vine plantings should be established at Union level, in the form of a scheme of authorisations for vine plantings.
- (56) Under this new system, authorisations for vine plantings may be granted without a cost being charged to producers, and should expire after three years if they are not used. This would contribute to the swift and direct use of the authorisations by the wine producers to whom they are granted, thereby avoiding speculation.
- (57) The growth of new vine plantings should be framed by a safeguard mechanism at Union level based on the obligation for Member States, on an annual basis, to make available authorisations for new plantings representing 1 % of the planted vine areas, while allowing for certain flexibility in order to respond to the specific circumstances of each Member State. Member States should be able to decide whether to make available smaller areas at national or regional levels, including at the level of areas eligible for specific protected designations of origin and protected geographical indications, on the basis of objective and non-discriminatory reasons, while ensuring the limitations imposed are above 0 % and are not overrestrictive in relation to the objectives pursued.
- (58) In order to guarantee that authorisations are granted in a non-discriminatory manner, certain criteria should be laid down, and in particular where the total number of hectares made available by the authorisations offered by Member States is exceeded by the total number of hectares requested in the applications submitted by producers.

⁽¹⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

- (59) The granting of authorisations to producers grubbing up an existing vine area should be automatic upon submission of an application and independently of the safeguard mechanism for new plantings, since it does not contribute to the overall increase of vine areas. In specific areas eligible for the production of wines with a protected designation of origin or a protected geographical indication, Member States should have the possibility of restricting the granting of such authorisations for replantings on the basis of recommendations of recognised and representative professional organisations.
- (60) This new scheme of authorisations for vine plantings should not apply to Member States not applying the Union transitional planting rights regime and should be optional for those Member States where, although the planting rights apply, the vine planting area is below a certain threshold.
- (61) Transitional provisions should be laid down in order to ensure a smooth transition from the former planting rights regime to the new scheme, in particular in order to avoid excessive plantings before the start of the new scheme. Member States should have a certain flexibility to decide on the deadline for the submission of requests for conversion of planting rights into authorisations from 31 December 2015 to 31 December 2020.
- (62) In order to ensure a harmonised and effective implementation of the new scheme of authorisations for vine plantings, the power to adopt certain acts should be delegated to the Commission in respect of the conditions for the exemption of certain vine plantings from the scheme, the rules relating to the eligibility and priority criteria, the addition of eligibility and priority criteria, the co-existence of vines to be grubbed up with newly planted vines, and the grounds on which Member States may restrict the granting of authorisations for replantings.
- (63) The control of non-authorised plantings should be carried out effectively in order to ensure the compliance with the rules for the new scheme.
- (64) The application of standards for the marketing of agricultural products can contribute to improving the economic conditions for the production and marketing and the quality of such products. The application of such standards is therefore in the interest of producers, traders and consumers.
- (65) Following the Communication from the Commission on agricultural product quality policy and subsequent debates, it is appropriate to maintain marketing standards by sectors or products, in order to take into account the expectations of consumers and to contribute to the improvement of the economic conditions for the production and marketing of agricultural products and their quality.
- (66) Provisions of a horizontal nature should be established for marketing standards.
- (67) Marketing standards should be divided between obligatory rules for specific sectors or products and optional reserved terms to be established on a sectoral or product basis.
- (68) Marketing standards should, in principle, apply to all agricultural products concerned that are marketed in the Union.
- (69) The sectors and products for which marketing standards may apply should be listed in this Regulation. However, in order to take account of the expectations of consumers and of the need to improve the quality of agricultural products and the economic conditions for their production and marketing, the power to adopt certain acts should be delegated to the Commission in respect of amending that list, subject to strict conditions.
- (70) In order to take account of the expectations of consumers and to improve the economic conditions for the production and marketing as well as the quality of certain agricultural products, and in order to adapt to constantly changing market conditions, evolving consumer demands, and developments in relevant international standards, and in order to avoid creating obstacles to product innovation, the power to adopt certain acts should be delegated to the Commission in respect of adopting marketing standards by sectors or products, at all stages of the marketing, as well as derogations and exemptions from such standards. The marketing standards should take into account, inter alia, the natural and essential characteristics of the products concerned, thereby avoiding causing substantial changes in the ordinary composition of the product concerned. Moreover, the marketing standards should take into account the possible risk of consumers being misled, as a result of their expectations and perceptions. Any derogation or exemptions from the standards should not entail additional costs which should be borne solely by farmers.
- (71) Marketing standards should apply to enable the market to be easily supplied with products of a standardised and satisfactory quality, and in particular should relate to technical definitions, classification, presentation, marking and labelling, packaging, production method, conservation, storage, transport, related administrative documents, certification and time limits, restrictions of use and disposal.

- (72) Taking into account the interest of producers in communicating the product and farming characteristics, and the interest of consumers in receiving adequate and transparent product information, it should be possible to determine the place of farming and/or the place of origin, on a case-by-case basis at the appropriate geographical level, while taking into account the specific characteristics of some sectors, in particular concerning processed agricultural products.
- (73) Special rules should be provided in respect of products imported from third countries provided that national provisions in force in third countries justify derogations from the marketing standards and their equivalence to Union legislation is guaranteed. It is also appropriate to lay down rules relating to the application of the marketing standards applicable to the products exported from the Union.
- (74) Products of the fruit and vegetables sector intended to be sold fresh to the consumer should be marketed only if they are sound, fair and of marketable quality and if the country of origin is indicated. In order to ensure the proper application of that requirement and to take into account certain specific situations, the power to adopt certain acts should be delegated to the Commission in respect of specific derogations from that requirement.
- (75) A quality policy should be followed throughout the Union by applying a certification procedure for products of the hops sector and by prohibiting the marketing of those products for which a certificate has not been issued. In order to ensure the proper application of that requirement and to take into account certain specific situations, the power to adopt certain acts should be delegated to the Commission in respect of measures derogating from that requirement in order to satisfy the trade requirements of certain third countries or for products intended for special uses.
- (76) For certain sectors and products, definitions, designations and sales descriptions are important elements for determining the conditions of competition. Therefore, it is appropriate to lay down definitions, designations and sales descriptions for those sectors and/or products, which should only be used in the Union for the marketing of products which comply with the corresponding requirements.
- (77) In order to adapt the definitions and sales descriptions for certain products to needs resulting from evolving consumer demands, technical progress or the need for product innovation, the power to adopt certain acts should be delegated to the Commission in respect of modifications, derogations or exemptions to definitions and sales descriptions.
- (78) In order to ensure that operators and Member States have a clear and proper understanding of the definitions and sales descriptions laid down for certain sectors, the power to adopt certain acts should be delegated to the Commission in respect of the rules on their specification and application.
- (79) In order to take into account the specific characteristics of each product or sector, the different marketing stages, the technical conditions, any possible considerable practical difficulty, and also the accuracy and repeatability of the methods of analysis, the power to adopt certain acts should be delegated to the Commission concerning tolerance for one or more specific standards in excess of which the entire batch of products should be considered not to respect the standard.
- (80) Certain oenological practices and restrictions for the production of wine should be determined, in particular as regards coupage and the use of certain types of grape must, grape juice and fresh grapes originating in third countries. In order to meet international standards, for further oenological practices, the Commission should take into account the oenological practices recommended by the International Organisation of Vine and Wine (OIV).
- (81) Rules should be laid down for the classification of wine grape varieties, according to which Member States producing more than 50 000 hectolitres per year should continue to be responsible for classifying the wine grape varieties from which wine may be made on their territories. Certain wine grape varieties should be excluded.
- (82) Member States should be able to maintain or adopt certain national rules on quality levels as regards spreadable fats.
- (83) For the wine sector, Member States should be allowed to limit or to exclude the use of certain oenological practices, should be allowed to keep more stringent restrictions for wines produced in their territory, and should allow the experimental use of unauthorised oenological practices.
- (84) In order to ensure the correct and transparent application of national rules for certain products and sectors as regards marketing standards, the power to adopt certain acts should be delegated to the Commission in respect of establishing conditions for the application of such marketing standards, as well as the conditions for the holding, circulation and use of the products obtained from experimental practices.

- (85) In addition to marketing standards, optional quality terms should be established in order to ensure that terms describing specific product characteristics, or farming or processing attributes are not misused in the market place and can be relied on by consumers to identify different qualities of product. In the light of the objectives of the present Regulation, and in the interest of clarity, existing optional quality terms should be listed in this Regulation.
- (86) Member States should be allowed to lay down rules concerning the disposal of wine products not complying with the requirements of this Regulation. In order to ensure the correct and transparent application of national rules concerning wine products, the power to adopt certain acts should be delegated to the Commission in respect of establishing conditions for the use of wine products not complying with the requirements of this Regulation.
- (87) In order to take into account the situation in the market and developments in marketing standards and in international standards, the power to adopt certain acts should be delegated to the Commission in respect of reserving an additional optional reserved term and laying down the conditions for its use, amending the conditions of use of an optional reserved term and cancelling an optional reserved term.
- (88) In order to take into account the characteristics of certain sectors and consumer expectations, the power to adopt certain acts should be delegated to the Commission in respect of laying down further details on the requirements for the introduction of an additional reserved term.
- (89) In order to ensure that products described by means of optional reserved terms conform to the applicable conditions of use, the power to adopt certain acts should be delegated to the Commission in respect of laying down additional rules on the use of optional reserved terms.
- (90) In order to take account of the specific characteristics of trade between the Union and certain third countries and the special character of certain agricultural products, the power to adopt certain acts should be delegated to the Commission concerning the conditions under which imported products are considered to have an equivalent level of conformity to the Union requirements concerning marketing standards, and which allow for measures derogating from the rules that products are to be marketed in the Union only in accordance with such standards and the rules relating to the application of the marketing standards to products exported from the Union.
- (91) Provisions concerning wine should be applied in the light of the international agreements concluded in accordance with the TFEU.
- (92) The concept of quality wines in the Union is based, inter alia, on the specific characteristics attributable to the wine's geographical origin. Such wines are identified for consumers through protected designations of origin and geographical indications. In order to allow for a transparent and more elaborate framework underpinning the claim by the products concerned to be of quality, a system should be established in which applications for a designation of origin or a geographical indication are examined in line with the approach followed by the Union's horizontal quality policy applicable to foodstuffs other than wine and spirits, set out in Regulation (EU) No 1151/2012 of the European Parliament and of the Council ⁽¹⁾.
- (93) In order to preserve the particular quality characteristics of wines with a protected designation of origin or a protected geographical indication, Member States should be allowed to apply more stringent rules.
- (94) To qualify for protection in the Union, designations of origin and geographical indications for wine should be recognised and registered at the Union level in accordance with procedural rules laid down by the Commission.
- (95) Protection should be open to designations of origin and geographical indications of third countries where they are protected in their country of origin.
- (96) The registration procedure should enable any natural or legal person having a legitimate interest in a Member State or a third country to exercise their rights by notifying their objections.
- (97) Registered designations of origin and geographical indications should be protected against uses which take advantage of the reputation enjoyed by complying products. So as to promote fair competition and not to mislead consumers, that protection should also extend to products and services not covered by this Regulation, including those not found in Annex I to the Treaties.
- (98) In order to take into account existing labelling practices, the power to adopt certain acts should be delegated to the Commission in respect of permitting the use of a name of a wine grape variety which contains or consists of a protected designation of origin or a protected geographical indication.

⁽¹⁾ Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

- (99) In order to take into account the specific characteristics of the production in the demarcated geographical area, the power to adopt certain acts should be delegated to the Commission in respect of laying down the additional criteria for the demarcation of the geographical area, and the restrictions and derogations concerning the production in the demarcated geographical area.
- (100) In order to ensure product quality and traceability, the power to adopt certain acts should be delegated to the Commission in respect of the conditions under which product specifications may include additional requirements.
- (101) In order to ensure the protection of the legitimate rights or interests of producers and operators, the power to adopt certain acts should be delegated to the Commission in respect of the type of applicant that may apply for the protection of a designation of origin or geographical indication; the conditions to be followed in respect of an application for the protection of a designation of origin or geographical indication, scrutiny by the Commission, the objection procedure, and procedures for amendment, cancellation and conversion of protected designations of origin or protected geographical indication. That empowerment should also cover: the conditions applicable to trans-border applications; the conditions for applications relating to geographical areas in a third country; the date from which protection or an amendment to a protection applies; and the conditions relating to amendments to product specifications.
- (102) In order to ensure an adequate level of protection, the power to adopt certain acts should be delegated to the Commission in respect of restrictions regarding the protected name.
- (103) In order to ensure that economic operators and competent authorities are not unduly affected by the application of this Regulation to wine names which have been granted protection prior to 1 August 2009, or for which an application for protection has been made prior to that date, the power to adopt certain acts should be delegated to the Commission in respect of laying down transitional rules concerning such wine names, wines placed on the market or labelled before a specific date, and amendments to the product specifications.
- (104) Certain terms are traditionally used in the Union to convey information to consumers about the particularities and the quality of wines, complementing the information conveyed by protected designations of origin and geographical indications. In order to ensure the working of the internal market and fair competition and to avoid consumers being misled, those traditional terms should be eligible for protection in the Union.
- (105) In order to ensure an adequate level of protection, the power to adopt certain acts should be delegated to the Commission in respect of the language and the spelling of a traditional term to be protected.
- (106) In order to ensure the protection of the legitimate rights of producers and operators, the power to adopt certain acts should be delegated to the Commission in respect of the type of applicants that may apply for the protection of a traditional term; the conditions of validity of an application for recognition of a traditional term; the grounds for objecting to the proposed protection of a traditional term; the scope of the protection, including the relationship with trade marks, protected traditional terms, protected designations of origin or geographical indications, homonyms, or certain wine grape names; the grounds for the cancellation of a traditional term; the date of submission of an application or a request; and the procedures to be followed in respect of an application for the protection of a traditional term, including scrutiny by the Commission, the objection procedure and the procedures on cancellation and modification.
- (107) In order to take into account the specific characteristics in trade between the Union and certain third countries, the power to adopt certain acts should be delegated to the Commission in respect of the conditions under which traditional terms may be used on products from third countries and providing for related derogations.
- (108) The description, designation and presentation of products of the wine sector covered by this Regulation can have significant effects on their marketability. Differences between the laws of Member States on the labelling of products of the wine sector may impede the smooth functioning of the internal market. Rules should therefore be laid down which take into account the legitimate interests of consumers and producers. For this reason, it is appropriate to provide for Union rules on labelling and presentation.
- (109) In order to ensure compliance with existing labelling practices, the power to adopt certain acts should be delegated to the Commission in respect of laying down the exceptional circumstances in which it is justified to omit reference to the terms "protected designation of origin" or "protected geographical indication".
- (110) In order to take into account the specific characteristics of the wine sector, the power to adopt certain acts should be delegated to the Commission in respect of the presentation and use of labelling particulars other than those provided for in this Regulation; certain compulsory and optional particulars; and presentation.

- (111) In order to ensure the protection of the legitimate interests of operators, the power to adopt certain acts should be delegated to the Commission in respect of temporary labelling and presentation of wines bearing a designation of origin or a geographical indication where that designation of origin or geographical indication fulfils the necessary requirements.
- (112) In order to ensure that economic operators are not prejudiced, the power to adopt certain acts should be delegated to the Commission in respect of transitional provisions as regards wine placed on the market and labelled in accordance with the relevant rules applying before 1 August 2009.
- (113) In order to take into account the specific characteristics in trade in wine sector products between the Union and certain third countries, the power to adopt certain acts should be delegated to the Commission in respect of the derogations from the rules on labelling and presentation as regards products to be exported where required by the law of the third country concerned.
- (114) Specific instruments will still be needed after the end of the quota system to ensure a fair balance of rights and obligations between sugar undertakings and sugar beet growers. Therefore, the standard provisions governing written agreements within the trade concluded between them should be established.
- (115) The 2006 reform of the sugar regime introduced far-reaching changes to the Union sugar sector. In order to enable sugar beet growers to complete their adaptation to the new market situation and to the increased market orientation of the sector, the present system of sugar quotas should be extended until it is abolished at the end of the 2016/2017 marketing year.
- (116) In order to take into account the specific characteristics of the sugar sector, the power to adopt certain acts should be delegated to the Commission in respect of updating the technical definitions concerning the sugar sector; updating the purchase terms for beet laid down in this Regulation; and further rules on the determination of gross weight, tare and sugar content of sugar delivered to an undertaking, and on sugar pulp.
- (117) Recent experience has demonstrated the need for specific measures to ensure a sufficient supply of sugar to the Union market during the remaining period of sugar quotas.
- (118) In order to take into account the specific characteristics of the sugar sector and to ensure that the interests of all parties are duly taken into account, and given the need to prevent any disturbance of the market, the power to adopt certain acts should be delegated to the Commission in respect of: purchase terms and delivery contracts; updating the purchase terms for beet laid down in this Regulation; and the criteria to be applied by the sugar undertakings when allocating among beet sellers the quantities of beet to be covered by pre-sowing delivery contracts.
- (119) In order to take account of technical developments, the power to adopt certain acts should be delegated to the Commission in respect of establishing a list of products for the production of which industrial sugar, industrial isoglucose or industrial inulin syrup may be used.
- (120) In order to ensure that approved undertakings producing or processing sugar, isoglucose or inulin syrup comply with their obligations, the power to adopt certain acts should be delegated to the Commission in respect of the granting and the withdrawal of approval for such undertakings, as well as the criteria for administrative penalties.
- (121) In order to take into account the specific characteristics of the sugar sector and to ensure that the interests of all parties are duly taken into account, the power to adopt certain acts should be delegated to the Commission in respect of the meaning of terms for the operation of the quota system and the conditions governing sales to outermost regions.
- (122) In order to ensure that the growers are closely associated with a decision to carry forward a certain quantity of production, the power to adopt certain acts should be delegated to the Commission in respect of carry-forward of sugar.
- (123) For a better management of wine-growing potential, Member States should communicate to the Commission an inventory of their production potential based on the vineyard register. To encourage Member States to communicate the inventory, support for restructuring and conversion should be limited to those Member States which have communicated the inventory.
- (124) In order to facilitate the monitoring and the verification of the production potential by Member States, the power to adopt certain acts should be delegated to the Commission in respect of the content of the vineyard register and exemptions.
- (125) In order to provide for a satisfactory level of traceability of the products concerned, in particular in the interest of consumer protection, it should be a requirement for all the wine sector products covered by this Regulation to have an accompanying document when circulating within the Union.

- (126) In order to facilitate the transport of wine products and the verification thereof by Member States, the power to adopt certain acts should be delegated to the Commission in respect of rules: on the accompanying document and its use; on the conditions under which an accompanying document is to be regarded as certifying protected designations of origin or geographical indications; on an obligation to keep a register and on its use; on specifying who shall keep a register and on exemptions from the obligation to keep a register; as well as on the operations to be included in the register.
- (127) In the absence of Union legislation on formalised, written contracts, Member States may, under national contract law, decide to make the use of such contracts compulsory, provided that, in doing so, Union law is respected, and in particular that the proper functioning of the internal market and the common market organisation is respected. Given the diversity of situations across the Union, and in the interests of subsidiarity, such a decision should remain with Member States. However, in the milk and milk products sector, to ensure appropriate minimum standards for such contracts and the proper functioning of the internal market and the common market organisation, some basic conditions for the use of such contracts should be laid down at the Union level. All such basic conditions should be freely negotiated. Since some dairy co-operatives possibly have rules with similar effect in their statutes, they should, in the interests of simplicity, be exempted from the requirement to enter into a contract. In order to strengthen the effectiveness of such system of contracts, Member States should decide whether they should also apply where intermediate parties collect milk from farmers to deliver to processors.
- (128) In order to ensure the viable development of production and a resulting fair standard of living for dairy farmers, their bargaining power vis-à-vis processors should be strengthened, which should result in a fairer distribution of added value along the supply chain. In order to attain those CAP objectives, a provision should be adopted pursuant to Article 42 and Article 43(2) TFEU to allow producer organisations constituted by dairy farmers or their associations to collectively negotiate with a dairy contract terms, including price, for some or all of their members' raw milk production. In order to maintain effective competition on the dairy market, this possibility should be subject to appropriate quantitative limits. In order not to undermine the effective functioning of cooperatives, and for the sake of clarity, it should be specified that, when a farmer's membership of a cooperative entails an obligation, in respect of all or a part of that farmer's milk production, to deliver raw milk, the conditions of which are set out in the cooperative's statutes or in the rules and decisions based thereon, those conditions should not be the subject of negotiations through a producer organisation.
- (129) In view of the importance of protected designations of origin and protected geographical indications, notably for vulnerable rural regions, and in order to ensure the value-added and to maintain the quality of, in particular, cheeses benefiting from protected designations of origin and protected geographical indications, and in view of the coming expiration of the milk quota system, Member States should be allowed to apply rules to regulate the entire supply of such cheese produced in the defined geographical area at the request of an interbranch organisation, a producer organisation or a group as defined in Regulation (EU) No 1151/2012. Such a request should be supported by a large majority of milk producers representing a large majority of the volume of milk used for that cheese and, in the case of interbranch organisations and groups, it should be supported by a large majority of cheese producers representing a large majority of the production of that cheese.
- (130) In order to follow developments in the market, the Commission needs timely information on volumes of raw milk delivered. Therefore, provision should be made to ensure that the first purchaser communicates such information to Member States on a regular basis and that the Member State notifies the Commission thereof.
- (131) Producer organisations and their associations can play useful roles in concentrating supply, in improving the marketing, planning and adjusting of production to demand, optimising production costs and stabilising producer prices, carrying out research, promoting best practices and providing technical assistance, managing by-products and risk management tools available to their members, thereby contributing to strengthening the position of producers in the food chain.
- (132) Interbranch organisations can play an important part in allowing dialogue between actors in the supply chain, and in promoting best practices and market transparency.
- (133) Existing rules on the definition and recognition of producer organisations, their associations, and interbranch organisations should therefore be harmonised, streamlined and extended to provide for possible recognition on request under statutes set out in accordance with this Regulation for certain sectors. In particular, the recognition criteria and statutes of producer organisations should ensure that such bodies are formed on

- the initiative of producers, and are controlled in accordance with rules enabling the producer members to scrutinise democratically their organisation and its decisions.
- (134) Existing provisions in various sectors, boosting the impact of producer organisations, their associations and interbranch organisations by permitting Member States, under certain conditions, to extend certain rules of such organisations to non-member operators, have proved effective, and should be harmonised, streamlined and extended to all sectors.
- (135) Provision should be made for the possibility of adopting certain measures to facilitate the adjustment of supply to market requirements which may contribute to stabilising the markets and to ensuring a fair standard of living for the agricultural community concerned.
- (136) In order to encourage action by producer organisations, associations of producer organisations and interbranch organisations to facilitate the adjustment of supply to market requirements, with the exception of actions relating to withdrawal from the market, the power to adopt certain acts should be delegated to the Commission in respect of: measures improving quality; promoting better organisation of production, processing and marketing; facilitating the recording of market price trends; and permitting the establishment of short and long-term forecasts on the basis of the means of production used.
- (137) In order to improve the operation of the market for wines, Member States should be able to implement decisions taken by interbranch organisations. The scope of such decisions should, however, exclude practices which could distort competition.
- (138) Whereas the use of formalised written contracts in the milk sector is covered by separate provisions, the use of such contracts may also help to reinforce the responsibility of operators in other sectors and to increase their awareness of the need to better take into account the signals of the market, to improve price transmission and to adapt supply to demand, as well as to help to avoid certain unfair commercial practices. In the absence of Union legislation concerning such contracts, Member States may, under national contract law, decide to make the use of such contracts compulsory, provided that, in doing so, Union law is complied with, and in particular that the proper functioning of the internal market and the common market organisation is respected.
- (139) In order to ensure the viable development of production and thus a fair standard of living for producers in the beef and veal and olive oil sectors, as well as for producers of certain arable crops, their bargaining power vis-à-vis downstream operators should be strengthened, thereby resulting in a fairer distribution of added value along the supply chain. To achieve those CAP objectives, recognised producer organisations should be able to negotiate, subject to quantitative limits, the terms of delivery contracts, including prices, for some or all of their members' production, provided that those organisations pursue one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs, and provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU. This could be realised provided that the producer organisation carries out certain specific activities and that these activities are significant in terms of volume of production concerned and in terms of cost of the production and placing of the product on the market.
- (140) In order to ensure the added value, and to maintain the quality of, in particular, cured ham benefitting from a protected designation of origin or a protected geographical indication, Member States should be allowed, subject to strict conditions, to apply rules to regulate the supply of such cured ham, provided that those rules are supported by a large majority of its producers and, where appropriate, by the producers of pigs in the geographical area relating to that ham.
- (141) The obligation to register all supply contracts regarding hops produced in the Union is burdensome and should be discontinued.
- (142) In order to ensure that the objectives and responsibilities of producer organisations, associations of producer organisations and interbranch organisations are clearly defined and to contribute to the effectiveness of their actions without imposing an undue administrative burden and without undermining the principle of freedom of association in particular with regard to non-members of such organisations, the power to adopt certain acts should be delegated to the Commission in respect of:
- rules on the specific aims which may, must or must not be pursued by such organisations and associations and, where applicable, should be added to those laid down in this Regulation; the rules of such organisations and associations, the statutes of organisations other than

producer organisations, the specific conditions applicable to the statutes of producer organisations in certain sectors, including derogations, the structure, membership period, size democratic accountability and activities of such organisations and associations, as well as the effects deriving from mergers; the conditions for recognition, withdrawal and suspension of recognition, the effects deriving thereof, as well as requirements to take remedial measures in the event of non-respect of the recognition criteria;

transnational organisations and associations and the rules relating to administrative assistance in the case of transnational cooperation; the sectors subject to Member State authorisation to which outsourcing applies and the conditions and the nature of activities which may be outsourced, and the provision of technical means by organisations or associations; the basis for calculation of minimum volume or value of marketable production of organisations and associations; rules on the calculation of the volume of raw milk covered by negotiations by a producer organisation, the acceptance of members who are not producers, in the case of producer organisations, or who are not producer organisations, in the case of an association of producer organisations;

the extension of certain rules of the organisations to non-members and the compulsory payment of subscriptions by non-members, including the use and allocation of such payments by those organisations and a list of stricter production rules which may be extended, further requirements as regards representativeness, the economic areas concerned, including Commission scrutiny of their definition, minimum periods during which the rules should be in force before their extension, the persons or organisations to whom the rules or contributions may be applied, and the circumstances in which the Commission may require that the extension of rules or compulsory contributions be refused or withdrawn.

- (143) Monitoring trade flows is primarily a management issue which should be addressed in a flexible way. The decision on the introduction of licence requirements should be made taking account of the need for licences, the need for the management of the markets concerned and, in particular, the need for monitoring the imports or exports of the products in question.
- (144) In order to take into account the international obligations of the Union and the applicable Union social, environmental and animal welfare standards, the need to monitor the evolution of trade and market developments and imports and exports, the need for sound market management and the need to reduce the administrative burden, the power to adopt certain acts should be delegated to the Commission in respect of the list of the products subject to the presentation of an import or

export licence, and the cases and situations where the presentation of an import or export licence is not required.

- (145) In order to provide further elements of the licence system, the power to adopt certain acts should be delegated to the Commission in respect of rules on: the rights and obligations deriving from the licence, its legal effects and the cases where a tolerance applies as regards compliance with the obligation to import or export the quantity mentioned in the licence or, where the origin is to be indicated, the issue of an import licence or the release into free circulation being subject to the presentation of a document issued by a third country or an entity certifying inter alia the origin, the authenticity and the quality characteristics of the products; the transfer of the licence or restrictions on its transferability; additional conditions for import licences for hemp and the principle of administrative assistance between Member States to prevent or deal with cases of fraud and irregularities; and the cases and situations where the lodging of a security guaranteeing that the products are imported or exported within the period of validity of the licence is or is not required.
- (146) The essential elements of customs duties applicable to agricultural products reflecting WTO agreements and bilateral agreements are laid down in the Common Customs Tariff. The Commission should be empowered to adopt measures for the detailed calculation of import duties pursuant to those essential elements.
- (147) The entry price system should be maintained for certain products. In order to ensure the efficiency of that system, the power to adopt certain acts should be delegated to the Commission in respect of checking the veracity of the declared price of a consignment using a flat-rate import value, and providing for the conditions under which the lodging of a security is required.
- (148) In order to prevent or counteract adverse effects on the Union market which might result from imports of certain agricultural products, imports of such products should be subject to payment of an additional duty, where certain conditions are fulfilled.
- (149) It is appropriate, under certain conditions, to open and administer import tariff quotas resulting from international agreements concluded in accordance with the TFEU or from other Union legal acts. For import tariff quotas, the method of administration adopted should give due weight to the supply requirements of the existing and emerging Union production, processing and consumption markets, in terms of the competitiveness, certainty and continuity of supply, and to the need to safeguard the equilibrium of the market.

- (150) In order to comply with the undertakings contained in the agreements concluded as part of the Uruguay Round of multilateral trade negotiations concerning tariff quotas for the import, into Spain, of 2 000 000 tonnes of maize and 300 000 tonnes of sorghum and tariff quotas for the import, into Portugal, of 500 000 tonnes of maize, the power to adopt certain acts should be delegated to the Commission in respect of establishing the provisions necessary for carrying out the tariff quota imports and, where appropriate, the public storage of the quantities imported by the paying agencies of the Member States concerned.
- (151) In order to ensure fair access to the quantities available and the equal treatment of operators within the tariff quota, the power to adopt certain acts should be delegated to the Commission in respect of: determining the conditions and eligibility requirements that an operator has to fulfil to submit an application within the tariff quota; establishing rules on the transfer of rights between operators and, where necessary, the limitations that apply to transfers within the management of the tariff quota; making participation in the tariff quota subject to the lodging of a security; and providing, where necessary, for any particular specific characteristics, requirements or restrictions applicable to the tariff quota as set out in the international agreement or other act concerned.
- (152) Agricultural products may in certain cases benefit from special import treatment in third countries if the products comply with certain specifications and/or price conditions. Administrative cooperation between the authorities in the importing third country and the Union is necessary to ensure the correct application of such a system. To that end, the products should be accompanied by a certificate issued in the Union.
- (153) In order to ensure that products that are exported may benefit from a special treatment on import into a third country if certain conditions are respected, pursuant to international agreements concluded by the Union in accordance with the TFEU, the power to adopt certain acts should be delegated to the Commission in respect of requiring the competent authorities of Member States, on request and after appropriate checks, to issue a document certifying that the conditions are met.
- (154) In order to prevent illicit crops from disturbing the market for hemp for fibre, this Regulation should provide for checks on imports of hemp and hemp seed to ensure that such products offer certain guarantees with regard to their tetrahydrocannabinol content. In addition, imports of hemp seed intended for uses other than sowing should continue to be subject to a control system which provides for the importers concerned to be authorised.
- (155) A quality policy is being pursued throughout the Union as regards products of the hops sector. In the case of imported products, the provisions ensuring that only products complying with equivalent minimum quality characteristics are imported should be incorporated in this Regulation. In order to minimise the administrative burden, the power to adopt certain acts should be delegated to the Commission in respect of the cases in which obligations related to an attestation of equivalence and the labelling of packaging should not apply.
- (156) The Union has concluded several preferential market access arrangements with third countries which allow those countries to export cane sugar to the Union under favourable conditions. The related provisions on the evaluation of the refiners' need for sugar for refining and, subject to certain conditions, the reservation of import licences to specialised users of significant quantities of imported raw cane sugar who are considered to be full-time refiners in the Union, should be maintained for a certain period. In order to ensure that imported sugar for refining is refined in accordance with those requirements, the power to adopt certain acts should be delegated to the Commission in respect of the use of terms for the operation of import arrangements; the conditions and eligibility requirements that an operator has to fulfil to lodge an application for an import licence, including the lodging of a security, and rules on administrative penalties to be imposed.
- (157) The customs duty system makes it possible to dispense with all other protective measures at the external borders of the Union. The internal market and duty mechanism may, in exceptional circumstances, prove to be inadequate. In such cases, in order not to leave the Union market without defence against the disturbances that might ensue, the Union should be able to take all necessary measures without delay. Such measures should comply with the international commitments of the Union.
- (158) It is appropriate to enable suspension of the use of inward and outward processing arrangements where the Union market is disturbed or is liable to be disturbed by such arrangements.
- (159) Refunds on exports to third countries, based on the difference between prices within the Union and on the world market, and falling within the limits set by the commitments made within the WTO, should be retained as a measure which may cover certain

products to which this Regulation applies where the conditions in the internal market are such as those described for exceptional measures. Subsidised exports should be subject to limits in terms of value and quantity, and, without prejudice to the application of exceptional measures, the refund available should be zero.

- (160) Compliance with the limits expressed in terms of value should be ensured at the time when the export refunds are fixed through the monitoring of payments under the rules relating to the European Agricultural Guarantee Fund. Monitoring should be facilitated by the compulsory advance fixing of export refunds, while providing for the possibility, in the case of differentiated refunds, of changing the specified destination within a geographical area to which a single export refund rate applies. In the case of a change of destination, the export refund applicable to the actual destination should be paid, with a ceiling on the amount applicable to the destination fixed in advance.
- (161) Compliance with the quantity limits should be ensured by a reliable and effective system of monitoring. To that end, the granting of export refunds should be made subject to an export licence. Export refunds should be granted up to the limits available, depending on the particular situation of each product concerned. Exceptions to that rule should be permitted only for processed products not listed in Annex I to the Treaties, to which volume limits do not apply. Provision should be made for a derogation from the requirement of strict compliance with management rules where exports benefiting from export refunds are not likely to exceed the quantity laid down.
- (162) In the case of the export of live bovine animals, export refunds should be granted and paid only if the provisions established in Union legislation concerning animal welfare, in particular those concerning the protection of animals during transport, are respected.
- (163) In order to ensure the proper functioning of the export refund system, the power to adopt certain acts should be delegated to the Commission in respect of the requirement to lodge a security guaranteeing the execution of the operator's obligations.
- (164) In order to minimise the administrative burden for operators and authorities, the power to adopt certain acts should be delegated to the Commission in respect of setting thresholds below which the obligation to issue

or present an export licence may not be required, designating destinations or operations where an exemption from the obligation to present an export licence can be justified, and permitting, in justified situations, export licences to be granted ex-post.

- (165) In order to address practical situations justifying the full or partial eligibility for export refunds, and in order to help operators bridge the period between the application for and the final payment of the export refund, the power to adopt certain acts should be delegated to the Commission in respect of rules on: another date for the refund; advance payment of export refunds, including the conditions for the lodging and release of a security; additional proof where doubts exist as to the real destination of products, and the opportunity for re-importation into the customs territory of the Union; destinations treated as exports from the Union, and the inclusion of destinations within the customs territory of the Union eligible for export refunds.
- (166) In order to ensure equal access to export refunds for exporters of products listed in Annex I to the Treaties and of products processed therefrom, the power to adopt certain acts should be delegated to the Commission in respect of applying certain rules for agricultural products to products exported in the form of processed goods.
- (167) In order to ensure that products benefiting from export refunds are exported from the customs territory of the Union and to avoid their return to that territory, as well as to minimise the administrative burden for operators in generating and submitting proof that refund products reached a country of destination for differentiated refunds, the power to adopt certain acts should be delegated to the Commission in respect of rules on: the time limit by which the exit from the customs territory of the Union must be finalised, including the time for temporary re-entry; the processing that products benefiting from export refunds may undergo during that period; the proof of having reached a destination in order to be eligible for differentiated refunds; the refund thresholds and conditions under which exporters may be exempted from such proof; and conditions for approval of proof, provided by independent third parties, of reaching a destination where differentiated refunds apply.
- (168) In order to encourage exporters to respect animal welfare conditions, and in order to enable the competent authorities to verify correct expenditure of export refunds where this is conditional on respect for animal welfare requirements, the power to adopt certain acts should be delegated to the Commission in respect of animal welfare requirements outside the customs territory of the Union, including the use of independent third parties.

- (169) In order to take account of the specific characteristics of the different sectors, the power to adopt certain acts should be delegated to the Commission in respect of specific requirements and conditions for operators and of the products eligible for an export refund, and the establishment of coefficients for the purposes of calculating export refunds, taking into account the ageing process of certain spirit drinks obtained from cereals.
- (170) Minimum export prices for flowering bulbs are no longer useful and should be abolished.
- (171) In accordance with Article 42 TFEU, the provisions of the TFEU concerning competition apply to the production of and trade in agricultural products only to the extent determined by Union legislation within the framework of Article 43(2) TFEU and in accordance with the procedure laid down therein.
- (172) In view of the specific characteristics of the agricultural sector and its reliance on the good functioning of the entire food supply chain, including the effective application of competition rules in all related sectors throughout the whole food chain, which can be highly concentrated, special attention should be paid to the application of the competition rules laid down in Article 42 TFEU. To that end, there is a need for close cooperation between the Commission and the competition authorities of Member States. Moreover, guidelines adopted, where appropriate, by the Commission are a suitable instrument to provide guidance to undertakings and other stakeholders concerned.
- (173) It should be provided that the rules on competition relating to the agreements, decisions and practices referred to in Article 101 TFEU and to abuse of a dominant position apply to the production of, and the trade in, agricultural products, provided that their application does not jeopardise the attainment of the objectives of the CAP.
- (174) A special approach should be allowed in the case of farmers' or producer organisations or their associations, the objective of which is the joint production or marketing of agricultural products or the use of joint facilities, unless such joint action excludes competition or jeopardises the attainment of the objectives of Article 39 TFEU.
- (175) Without prejudice to the regulation of supply for certain products, such as cheese and ham benefitting from a protected designation of origin or a protected geographic indication, or wine, which is governed by a specific set of rules, a special approach should be taken as regards certain activities of interbranch organisations on the condition that they do not lead to the partitioning of markets, affect the sound operation of the CMO, distort or eliminate competition, entail the fixing of prices or quotas, or create discrimination.
- (176) The proper functioning of the internal market would be jeopardised by the granting of national aid. Therefore, the provisions of the TFEU concerning State aid should, as a general rule, apply to agricultural products. This notwithstanding, in certain situations exceptions should be allowed. Where such exceptions exist, the Commission should be in a position to draw up a list of existing, new or proposed national aid, to make appropriate observations to Member States and to propose suitable measures.
- (177) The provisions on the grubbing-up premium and certain measures under wine support programmes should not, in themselves, preclude national payments for the same purposes.
- (178) Due to the specific economic situation of the production and marketing of reindeer and reindeer products, Finland and Sweden should continue to grant national payments in that regard.
- (179) In Finland, sugar beet growing is subject to particular geographical and climatic conditions which adversely affect the sector in addition to the general effects of the sugar reform. That Member State should therefore be authorised, on a permanent basis, to make national payments to its sugar beet growers.
- (180) Member States should be able to make national payments in order to co-finance the apiculture measures laid down under this Regulation, as well as to protect of apiaries disadvantaged by structural or natural conditions or subject to economic development programmes, except national payment allocated for production or trade.
- (181) Member States participating in the schemes to improve access to food for children should be able to grant national aid in addition to Union aid for the supply of the products and for certain related costs.

- (182) In order to address justified cases of crisis even after the end of the transitional period, Member States should be able to make national payments for crisis distillation within an overall budgetary limit of 15 % of the respective value of the Member State's relevant yearly budget for its national support programme. Such national payments should be notified to the Commission and approved before being granted.
- (183) Member States should be allowed to continue to make national payments for nuts as currently provided for under Article 120 of Regulation (EC) No 73/2009, in order to cushion the effects of decoupling of the former Union aid scheme for nuts. In the interest of clarity, since that Regulation is to be repealed, those national payments should be provided for in this Regulation.
- (184) Special intervention measures should be provided in order to react efficiently and effectively against threats of market disturbance. The scope of those measures should be defined.
- (185) In order to react efficiently and effectively against threats of market disturbance caused by significant price rises or falls on internal or external markets, or other events and circumstances significantly disturbing or threatening to disturb the market, where that situation, or its effects on the market, is likely to continue or deteriorate, the power to adopt certain acts should be delegated to the Commission in respect of the measures necessary to address that market situation, while respecting any obligations resulting from international agreements and provided that any other measures available under this Regulation appear to be insufficient, including measures to extend or modify the scope, duration or other aspects of other measures provided for under this Regulation, or provide for export refunds, or suspend import duties, in whole or in part, including for certain quantities or periods, as necessary.
- (186) Restrictions to free circulation resulting from the application of measures intended to combat the spread of animal diseases could cause difficulties on the market in one or more Member States. Experience shows that serious market disturbances such as a significant drop in consumption or in prices may be attributed to a loss in consumer confidence due to public health or animal or plant health risks. In the light of experience, measures attributable to a loss in consumer confidence should be extended to plant products.
- (187) The exceptional market support measures for beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs and poultrymeat should be directly related to health and veterinary measures adopted in order to combat the spread of disease. They should be taken at the request of Member States in order to avoid serious disruption on the markets.
- (188) In order to react effectively to exceptional circumstances, the power to adopt certain acts should be delegated to the Commission in respect of extending the list of products, as set out in this Regulation, in respect of which exceptional support measures may be adopted.
- (189) The Commission should be authorised to adopt the necessary measures to solve specific problems in case of emergency.
- (190) Reacting efficiently and effectively against threats of market disturbance may be of particular importance for the milk sector. Similarly, specific problems in case of emergency may arise. It is therefore necessary to emphasise that the adoption by the Commission of the above mentioned measures in case of market disturbance, including market imbalance, or those needed to solve specific problems in case of emergency may address in particular the milk sector.
- (191) In order to respond to periods of severe market imbalance, specific categories of collective actions by private operators may be appropriate, as exceptional measures, in order to stabilise the sectors concerned, subject to precise safeguards, limits and conditions. Where such actions could fall under the scope of Article 101(1) TFEU, the Commission should be able to provide a derogation for a limited period. These actions should however complement Union action in the framework of public intervention and private storage or exceptional measures envisaged by this Regulation, and should not impair the functioning of the internal market.
- (192) It should be possible to require undertakings, Member States or third countries to submit communications for the purposes of applying this Regulation, monitoring, analysing and managing the market in agricultural products, ensuring market transparency and the proper functioning of CAP measures, checking, controlling, monitoring, evaluating and auditing CAP measures, and complying with the requirements laid down in international agreements, including notification requirements under those agreements. In order to ensure a harmonised, streamlined and simplified approach, the Commission should be empowered to adopt the necessary measures regarding communications. In so doing, it should take into account the data needs and synergies between potential data sources.

- (193) In order to ensure the integrity of information systems and the authenticity and legibility of documents and associated data transmitted, the power to adopt certain acts should be delegated to the Commission in respect of the nature and type of the information to be notified; the categories of data to be processed and maximum retention periods; the purpose of processing, in particular in the event of the publication of such data and their transfer to third countries; the access rights to the information or information systems made available; and the conditions of publication of the information.
- (194) Union law concerning the protection of individuals with regard to the processing of personal data and the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council ⁽¹⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾ is applicable.
- (195) The European Data Protection Supervisor was consulted and delivered an opinion on 14 December 2011 ⁽³⁾.
- (196) Funds should be transferred from the Reserve for crises in the agricultural sector under the conditions and procedure referred to in Article 24 of Regulation (EU) No 1306/2013 and paragraph 22 of the Interinstitutional 17 December 2013 Agreement between the European Parliament, the Council and the Commission on budgetary discipline, cooperation in budgetary matters and on sound financial management ⁽⁴⁾, and it should be clarified that this Regulation is the applicable basic act.
- (197) In order to ensure the smooth transition from the arrangements provided for in Regulation (EC) No 1234/2007 to those laid down in this Regulation, the power to adopt certain acts should be delegated to the Commission in respect of establishing the necessary measures, in particular those necessary to protect the acquired rights and legitimate expectations of undertakings.
- (198) The use of urgency procedure when adopting delegated acts under this Regulation should be reserved for exceptional cases where imperative grounds of urgency so require in order to react efficiently and effectively against threats of market disturbance or where market disturbances are occurring. The choice of an urgency procedure should be justified and the cases in which the urgency procedure should be used should be specified.
- (199) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁵⁾.
- (200) The examination procedure should be used for the adoption of the acts implementing this Regulation given that those acts relate to the CAP as referred to in point (b)(ii) of Article 2(2) of Regulation (EU) No 182/2011. However, the advisory procedure should be used for the adoption of the acts implementing this Regulation relating to competition matters given that the advisory procedure is used in general for the adoption of implementing acts in the field of competition law.
- (201) The Commission should adopt immediately applicable implementing acts relating to adopting, amending or revoking Union safeguard measures, to suspending the use of processing or inward or outward processing arrangements, if that is necessary to react immediately to the market situation, and to resolving specific problems, in an emergency, which need to be dealt with immediately, where, in duly justified cases, imperative grounds of urgency so require.
- (202) In respect of certain measures under this Regulation which require swift action or which consist in the mere application of general provisions to specific situations without involving a discretion, the Commission should be empowered to adopt implementing acts without applying Regulation (EU) No 182/2011.
- (203) The Commission should further be empowered to carry out certain administrative or management tasks which do not entail the adoption of delegated or implementing acts.
- (204) This Regulation should provide for certain specific rules concerning Croatia in accordance with the Act of Accession of Croatia ⁽⁶⁾.
- (205) Pursuant to Regulation (EC) No 1234/2007, several measures by sector will expire within a reasonable period following the entry in force of this Regulation. After the repeal of Regulation (EC) No 1234/2007, the relevant provisions should continue to apply until the end of the schemes concerned.
- (206) Council Regulation (EEC) No 922/72 ⁽⁷⁾ concerning aid for silkworms for the 1972/1973 rearing year is now

⁽¹⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽³⁾ OJ C 35, 9.2.2012, p. 1.

⁽⁴⁾ OJ C 373, 20.12.2013, p. 1.

⁽⁵⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽⁶⁾ OJ L 112, 24.4.2012, p. 21.

⁽⁷⁾ Council Regulation (EEC) No 922/72 laying down general rules for granting aid in respect of silkworms for the 1972/73 rearing year (OJ L 106, 5.5.1972, p. 1).

obsolete; Regulation (EEC) No 234/79 concerning the procedures for adjusting the Common Customs Tariff nomenclature is superseded by this Regulation; Council Regulation (EC) No 1601/96 ⁽¹⁾ concerning aid to hops producers for the 1995 harvest is a temporary measure, which, by its nature, is now obsolete. Council Regulation (EC) No 1037/2001 ⁽²⁾ authorising the offer and delivery of certain imported wines has been superseded by the provisions of the Agreement between the European Community and the United States of America on trade in wine adopted by Council Decision 2006/232/EC ⁽³⁾, and is therefore obsolete. In the interests of clarity and legal certainty, those Regulations should be repealed.

(207) Certain rules in the milk and milk products sector, in particular those concerning contractual relations and negotiations; regulation of the supply of cheese with a protected designation of origin or protected geographical indication; and declarations by first purchasers, producer organisations, associations of producer organisations and interbranch organisations have recently entered into force and remain justified in the current economic circumstances of the dairy market and the structure of the supply chain. They should therefore be applied in that sector for a sufficiently long period (both before and after the abolition of milk quotas) to allow them to have full effect. However, those rules should be temporary in nature and should be subject to review. The Commission should adopt reports on the development of the milk market, covering, in particular, potential incentives to encourage farmers to enter into joint production agreements, the first of which is to be submitted by 30 June 2014, and the second by 31 December 2018,

HAVE ADOPTED THIS REGULATION:

PART I

INTRODUCTORY PROVISIONS

Article 1

Scope

1. This Regulation establishes a common organisation of the markets for agricultural products, which means all the products listed in Annex I to the Treaties with the exception of the fishery and aquaculture products as defined in Union legislative acts on the common organisation of the markets in fishery and aquaculture products.

⁽¹⁾ Council Regulation (EC) No 1601/96 of 30 July 1996 laying down, in respect of hops, the amount of aid to producers for the 1995 harvest (OJ L 206, 16.8.1996, p. 46).

⁽²⁾ Council Regulation (EC) No 1037/2001 of 22 May 2001 authorising the offer and delivery for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EC) No 1493/1999 (OJ L 145, 31.5.2001, p. 12).

⁽³⁾ Council Decision 2006/232/EC of 20 December 2005 on the conclusion of the Agreement between the European Community and the United States of America on trade in wine (OJ L 87, 24.3.2006, p. 1).

2. Agricultural products as defined in paragraph 1 shall be divided into the following sectors as listed in the respective parts of Annex I:

- (a) cereals, Part I;
- (b) rice, Part II;
- (c) sugar, Part III;
- (d) dried fodder, Part IV;
- (e) seeds, Part V;
- (f) hops, Part VI;
- (g) olive oil and table olives, Part VII;
- (h) flax and hemp, Part VIII;
- (i) fruit and vegetables, Part IX;
- (j) processed fruit and vegetable products, Part X;
- (k) bananas, Part XI;
- (l) wine, Part XII;
- (m) live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage, Part XIII;
- (n) tobacco, Part XIV;
- (o) beef and veal, Part XV;
- (p) milk and milk products, Part XVI;
- (q) pigmeat, Part XVII;
- (r) sheepmeat and goatmeat, Part XVIII;
- (s) eggs, Part XIX;
- (t) poultrymeat, Part XX;
- (u) ethyl alcohol of agricultural origin, Part XXI;
- (v) apiculture products, Part XXII;
- (w) silkworms, Part XXIII;
- (x) other products, Part XXIV.

*Article 2***General common agricultural policy (CAP) provisions**

Regulation (EU) No 1306/2013 and the provisions adopted pursuant to it shall apply in relation to the measures set out in this Regulation.

*Article 3***Definitions**

1. For the purposes of this Regulation, the definitions concerning certain sectors as set out in Annex II shall apply.

2. The definitions set out in Section B of Part II of Annex II shall only apply until the end of the 2016/2017 marketing year for sugar.

3. The definitions set out in Regulation (EU) No 1306/2013, Regulation (EU) No 1307/2013 ⁽¹⁾ of the European Parliament and of the Council and Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽²⁾ shall apply for the purposes of this Regulation, save as otherwise provided for in this Regulation.

4. In order to take into account the specific characteristics of the rice sector, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 amending the definitions concerning the rice sector set out in Part I of Annex II to the extent necessary to update the definitions in the light of market developments.

5. For the purposes of this Regulation:

- (a) "less developed regions" means those regions defined as such in point (a) of the first subparagraph of Article 90(2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽³⁾.
- (b) "adverse climatic event which can be assimilated to a natural disaster" means weather conditions such as frost, hail, ice, rain or drought which destroy more than 30 % of the average annual production of a given farmer in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry.

⁽¹⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (See page 608 of this Official Journal)

⁽²⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (See page 487 of this Official Journal).

⁽³⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (See page 85 of this Official Journal).

*Article 4***Adjustments to the Common Customs Tariff nomenclature used for agricultural products**

Where necessary in order to take into account amendments to the combined nomenclature, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 adjusting the description of products and references in this Regulation to the headings or subheadings of the combined nomenclature.

*Article 5***Conversion rates for rice**

The Commission may adopt implementing acts:

- (a) fixing the conversion rates for rice at various stages of processing, the processing costs and the value of by-products;
- (b) adopting all necessary measures regarding the application of conversion rates for rice.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

*Article 6***Marketing years**

The following marketing years shall be established:

- (a) 1 January to 31 December of a given year for the fruit and vegetables, processed fruit and vegetables and banana sectors;
- (b) 1 April to 31 March of the following year for the dried fodder and silkworm sectors;
- (c) 1 July to 30 June of the following year for:
 - (i) the cereals sector;
 - (ii) the seeds sector;
 - (iii) the olive oil and table olives sector;
 - (iv) the flax and hemp sector;
 - (v) the milk and milk products sector;
- (d) 1 August to 31 July of the following year for the wine sector;
- (e) 1 September to 31 August of the following year for the rice sector;
- (f) 1 October to 30 September of the following year for the sugar sector.

*Article 7***Reference thresholds**

1. The following reference thresholds are fixed:
 - (a) as regards the cereals sector, EUR 101,31/tonne, related to the wholesale stage for goods delivered to the warehouse, before unloading;
 - (b) as regards paddy rice, EUR 150/tonne for the standard quality as defined in point A of Annex III, related to the wholesale stage for goods delivered to the warehouse, before unloading;
 - (c) as regards sugar of standard quality as defined in point B of Annex III, related to unpacked sugar, ex-factory:
 - (i) for white sugar: EUR 404,4/tonne;
 - (ii) for raw sugar: EUR 335,2/tonne;
 - (d) as regards the beef and veal sector, EUR 2 224/tonne for carcasses of male bovine animals of conformation/fat cover class R3 as laid down in the Union scale for the classification of carcasses of bovine animals aged eight months or more referred to in point A of Annex IV;
 - (e) as regards the milk and milk products sector:
 - (i) EUR 246,39 per 100 kg for butter;
 - (ii) EUR 169,80 per 100 kg for skimmed milk powder;
 - (f) as regards pigmeat, EUR 1 509,39/tonne for pig carcasses of a standard quality defined in terms of weight and lean meat content as laid down in the Union scale for the classification of pig carcasses referred to in point B of Annex IV as follows:
 - (i) carcasses weighing from 60 to less than 120 kg: class E;
 - (ii) carcasses weighing from 120 to 180 kg: class R;
 - (g) as regards the olive oil sector:
 - (i) EUR 1 779/tonne for extra virgin olive oil;
 - (ii) EUR 1 710/tonne for virgin olive oil;

- (iii) EUR 1 524/tonne for lampante olive oil with two degrees of free acidity, this amount being reduced by EUR 36,70/tonne for each additional degree of acidity.

2. The reference thresholds provided for in paragraph 1 shall be kept under review by the Commission, taking account of objective criteria, notably developments in production, costs of production (particularly inputs), and market trends. When necessary, the reference thresholds shall be updated in accordance with the ordinary legislative procedure in the light of developments in production and markets.

PART II

INTERNAL MARKET

TITLE I

MARKET INTERVENTION

CHAPTER I

Public intervention and aid for private storage

Section 1

General provisions on public intervention and aid for private storage*Article 8***Scope**

This Chapter lays down rules on market intervention concerning:

- (a) public intervention, where products are bought in by the competent authorities of the Member States and stored by them until disposed of; and
- (b) granting of aid for the storage of products by private operators.

*Article 9***Origin of eligible products**

Products eligible for buying-in under public intervention or for the granting of aid for private storage shall originate in the Union. In addition, if they come from crops, those crops shall have been harvested in the Union, and if they come from milk, that milk shall have been produced in the Union.

*Article 10***Union scales for the classification of carcasses**

Union scales for the classification of carcasses shall apply in accordance with, respectively, points A and B of Annex IV in the beef and veal sector as regards carcasses of bovine animals aged eight months or more and in the pigmeat sector as regards pigs other than those that have been used for breeding.

In the sheepmeat and goatmeat sector, Member States may apply a Union scale for the classification of sheep carcasses in accordance with the rules laid down in point C of Annex IV.

Section 2

Public intervention

Article 11

Products eligible for public intervention

Public intervention shall apply in respect of the following products in accordance with the conditions laid down in this Section and any additional requirements and conditions that may be determined by the Commission, by means of delegated acts pursuant to Article 19 and implementing acts pursuant to Article 20:

- (a) common wheat, durum wheat, barley and maize;
- (b) paddy rice;
- (c) fresh or chilled meat of the beef and veal sector falling within CN codes 0201 10 00 and 0201 20 20 to 0201 20 50;
- (d) butter produced directly and exclusively from pasteurised cream obtained directly and exclusively from cow's milk in an approved undertaking in the Union of a minimum butterfat content, by weight, of 82 % and of a maximum water content, by weight, of 16 %;
- (e) skimmed milk powder of top quality made from cow's milk in an approved undertaking in the Union by the spray process, with a minimum protein content of 34,0 % by weight of the fat free dry matter.

Article 12

Public intervention periods

Public intervention shall be available for:

- (a) common wheat, durum wheat, barley and maize, from 1 November to 31 May;
- (b) paddy rice, from 1 April to 31 July;
- (c) beef and veal, throughout the year;
- (d) butter and skimmed milk powder, from 1 March to 30 September.

Article 13

Opening and closing of public intervention

1. During the periods referred to in Article 11, public intervention:

- (a) shall be open for common wheat, butter and skimmed milk powder;
- (b) may be opened by the Commission, by means of implementing acts, for durum wheat, barley, maize and paddy

rice (including specific varieties or types of paddy rice), if the market situation so requires. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2);

- (c) may be opened for the beef and veal sector by the Commission, by means of implementing acts adopted without applying the procedure referred to in Article 229(2) or (3), if, over a representative period determined pursuant to point (c) of the first paragraph of Article 20 the average market price in a Member State or in a region of a Member State, recorded on the basis of the Union scale for the classification of carcasses of bovine animals referred to in point A of Annex IV, is below 85 % of the reference threshold laid down in point (d) of Article 7(1).

2. The Commission may adopt implementing acts closing public intervention for the beef and veal sector where, over a representative period determined pursuant to point (c) of the first paragraph of Article 20, the conditions provided for in point (c) of paragraph 1 of this Article are no longer fulfilled. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

Article 14

Buying-in at a fixed price or tendering

Where public intervention is open pursuant to Article 13(1), measures on fixing buying-in prices for the products referred to in Article 11 as well as, where applicable, measures on quantitative limitations where buying-in is carried out at a fixed price, shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 15

Public intervention price

1. Public intervention price means:

- (a) the price at which products shall be bought in under public intervention where this is done at a fixed price; or
- (b) the maximum price at which products eligible for public intervention may be bought in where this is done by tendering.

2. The measures on fixing the level of the public intervention price, including the amounts of increases and reductions, shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 16

General principles on disposal from public intervention

1. Disposal of products bought in under public intervention shall take place in such a way as to:

- (a) avoid any disturbance of the market,

- (b) ensure equal access to goods and equal treatment of purchasers, and
- (c) be in compliance with the commitments resulting from international agreements concluded in accordance with the TFEU.

2. Products bought in under public intervention may be disposed of by making them available for the scheme for food distribution to the most deprived in the Union as set out in the relevant Union legal acts. In such cases, the accounting value of such products shall be at the level of the relevant fixed public intervention price referred to in Article 14(2) of this Regulation.

3. Each year the Commission shall publish details of the conditions under which products bought in under public intervention were sold in the previous year.

Section 3

Aid for private storage

Article 17

Eligible products

Aid for private storage may be granted in respect of the following products in accordance with the conditions set out in this Section and any further requirements and conditions to be adopted by the Commission, by means of delegated acts pursuant to Article 18(1) or Article 19 and implementing acts pursuant to Article 18(2) or Article 20:

- (a) white sugar;
- (b) olive oil;
- (c) flax fibre;
- (d) fresh or chilled meat of bovine animals aged eight months or more;
- (e) butter produced from cream obtained directly and exclusively from cow's milk;
- (f) cheese;
- (g) skimmed milk powder made from cow's milk;
- (h) pigmeat;
- (i) sheepmeat and goatmeat.

Point (f) of the first paragraph is restricted to cheese benefiting from a protected designation of origin or from a protected geographical indication under Regulation (EU) No 1151/2012 that is stored beyond the period of maturation laid down in the product specification for the product referred to in Article 7 of that Regulation and/or a period of maturation that contributes to increasing the value of the cheese.

Article 18

Conditions for granting aid

1. In order to provide for market transparency, the Commission shall, where necessary, be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which it may decide to grant private storage aid for the products listed in Article 17, taking into account:

- (a) average recorded Union market prices and the reference thresholds and production costs for the products concerned; and/or
- (b) the need to respond in a timely way to a particularly difficult market situation or economic developments having a significant negative impact on the margins in the sector.

2. The Commission may adopt implementing acts

- (a) granting private storage aid for the products listed in Article 17, taking into account the conditions referred to in paragraph 1 of this Article;
- (b) restricting the granting of private storage aid.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

3. Measures on fixing the amount of aid for private storage provided for in Article 17 shall be taken by the Council in accordance with Article 43(3) TFEU.

Section 4

Common provisions on public intervention and aid for private storage

Article 19

Delegated powers

1. In order to ensure that products bought in under public intervention or subject to aid for private storage are suitable for long-term storage and are of sound, fair and marketable quality, and in order to take into account the specific characteristics of the different sectors for the purposes of ensuring the cost-effective operation of public intervention and private storage, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the requirements and conditions to be met by those products, in addition to the requirements laid down in this Regulation. Those requirements and conditions shall aim to guarantee, for the products bought in and stored:

- (a) their quality with respect to quality parameters, quality groups, quality grades, categories, product characteristics and age;

(b) their eligibility with respect to quantities, packaging including labelling, preservation, previous storage contracts, approval of undertakings and the stage of the products to which the public intervention price and the aid for private storage applies.

2. In order to take account of the specific characteristics of the cereals and paddy rice sectors, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the quality criteria as regards both buying-in and sales of common wheat, durum wheat, barley, maize and paddy rice.

3. In order to ensure appropriate storage capacity and the efficiency of the public intervention system in terms of cost-effectiveness, distribution and access for operators, and in order to maintain the quality of products bought in under public intervention for their disposal at the end of the storage period, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- (a) the requirements to be fulfilled by storage places for all products subject to public intervention;
- (b) rules on the storage of products inside and outside the Member State responsible for them and for the treatment of such products as regards customs duties and any other amounts to be granted or levied under the CAP.

4. In order to ensure that aid for private storage has the desired effect on the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- (a) rules and conditions applicable where the quantity stored is lower than the contracted quantity;
- (b) the conditions for granting an advance payment of such aid;
- (c) the conditions under which it may be decided that products covered by private storage contracts may be re-marketed or disposed of.

5. In order to ensure the proper functioning of the public intervention and private storage systems, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- (a) providing for the use of tendering procedures guaranteeing equal access to goods and equal treatment of operators;
- (b) laying down the additional conditions to be fulfilled by operators in order to facilitate the effective management and control of the system for Member States and operators;
- (c) laying down the requirement for operators to lodge a security guaranteeing the fulfilment of their obligations.

6. In order to take account of technical developments and of the needs of sectors referred to in Article 10, as well as of the need to standardise the presentation of the different products for the purposes of improving market transparency, price recording and the application of the market intervention measures, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- (a) adapting and updating the provisions of Annex IV on the Union scales for the classification, identification and presentation of carcasses;
- (b) laying down supplementary provisions relating to classification, including by qualified classifiers, to grading, including by automated grading techniques, to identification, weighing and marking of carcasses and to the calculation of average Union prices and to the weighting coefficients used in the calculation of those prices;
- (c) laying down, in the beef and veal sector, derogations from provisions and specific derogations which may be granted by Member States to slaughterhouses in which few bovine animals are slaughtered, and additional provisions for the products concerned, including regarding the classes of conformation and fat cover and, in sheepmeat sector, further provisions as regards weight, colour of meat and fat cover and the criteria for the classification of light lambs;
- (d) providing Member States with the authorisation not to apply the grading scale for classification of pig carcasses and the authorisation to use assessment criteria in addition to weight and estimated lean-meat content, or laying down derogations from that scale.

Article 20

Implementing powers in accordance with the examination procedure

The Commission shall adopt implementing acts laying down the measures necessary for the uniform application of this Chapter. Those measures may, in particular, concern the following:

- (a) the costs payable by the operator where products delivered for public intervention do not meet the minimum quality requirements;
- (b) the fixing of minimum storage capacity for intervention storage places;
- (c) the representative periods, markets, and market prices necessary for the application of this Chapter;
- (d) the delivery of the products to be bought in under public intervention, the transport costs to be borne by the offerer, the taking over of the products by paying agencies and the payment;

- (e) the different operations connected with the boning process for the beef and veal sector;
- (f) the practical arrangements for the packaging, marketing and labelling of products;
- (g) the procedures for the approval of undertakings producing butter and skimmed milk powder for the purposes of this Chapter;
- (h) any authorisation of storage outside the territory of the Member State where the products have been bought in and stored;
- (i) the sale or disposal of products bought in under public intervention, regarding, in particular, selling prices, the conditions for removal from storage, the subsequent use or destination of products released, including procedures relating to products made available for use in the scheme referred to in Article 16(2), including transfers between Member States;
- (j) in respect of products bought in under public intervention, the provisions relating to the possibility for Member States to sell, at their own responsibility, small quantities remaining in storage or quantities which may no longer be repackaged or which have deteriorated;
- (k) in respect of private storage, the conclusion and the content of contracts between the competent authority of the Member State and the applicants;
- (l) the placing and keeping of products in private storage and their removal from storage;
- (m) the duration of the private storage period and the provisions according to which such periods, once specified in the contracts, may be curtailed or extended;
- (n) the procedures to be followed for buying-in at a fixed price, including the procedures for, and the amount of, the security to be lodged, or for the granting of aid fixed in advance for private storage;
- (o) the use of tendering procedures, both for public intervention and for private storage, in particular as regards:
- (i) the submission of offers or tenders and the minimum quantity for an application or submission;
- (ii) the procedures for, and the amount of, the security to be lodged; and
- (iii) the selection of offers ensuring that preference is given to those which are most favourable to the Union whilst permitting that the award of a contract does not necessarily ensue;
- (p) the implementation of Union scales for the classification of beef, pig and sheep carcasses;
- (q) a different presentation of carcasses and half carcasses than the one laid down in point A.IV of Annex IV for the purpose of establishing market prices;
- (r) the corrective factors to be applied by Member States to be used for a different presentation of beef and sheep carcasses where the reference presentation is not used;
- (s) the practical arrangements for the marking of classified carcasses and for the calculation by the Commission of the weighted average Union price for beef, pig and sheep carcasses;
- (t) the authorisation of Member States to provide, with regard to pigs slaughtered in their territory, for a different presentation of pig carcasses than the one laid down in point B.III of Annex IV, if one of the following conditions is fulfilled:
- (i) normal commercial practice in their territory differs from the standard presentation defined in the first subparagraph of point B.III of Annex IV;
- (ii) technical requirements warrant it;
- (iii) carcasses are dehidated in a uniform manner;
- (u) the provisions for the on-the-spot review of the application of classification of carcasses in Member States by a Union committee composed of experts from the Commission and experts appointed by Member States in order to ensure the accuracy and reliability of the classification of carcasses. Those provisions shall provide for the Union to bear the costs resulting from the review activity.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 21

Other implementing powers

The Commission shall adopt implementing acts in order to authorise Member States to use for lambs of less than 13 kg carcass weight, by way of derogation from point C.III of Annex IV, the following criteria for classification:

- (a) carcass weight;
- (b) colour of meat;
- (c) fat cover.

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

CHAPTER II

Aid schemes

Section 1

Schemes to improve access to food

Article 22

Target group

Aid schemes intended to improve the distribution of agricultural products and improving children's eating habits are aimed at children who regularly attend nurseries, pre-schools or primary or secondary-level educational establishments which are administered or recognised by the competent authorities of Member States.

Subsection 1

School fruit and vegetables scheme

Article 23

Aid for the supply of fruit and vegetables, processed fruit and vegetables and banana products to children

1. Union aid shall be granted for:
 - (a) the supply to children in the educational establishments referred to in Article 22 of products of the fruit and vegetables, processed fruit and vegetables, and bananas sectors; and
 - (b) certain related costs linked to logistics and distribution, equipment, publicity, monitoring, evaluation and accompanying measures.
2. Member States wishing to participate in the scheme shall draw up, at national or regional level, a prior strategy for its implementation. They shall also provide for the accompanying measures necessary to make the scheme effective, which may include information on measures for education about healthy eating habits, about local food chains and about combating food wastage.
3. When drawing up their strategies, Member States shall draw up a list of products of the fruit and vegetables, processed fruit and vegetables, and bananas sectors that will be eligible under their respective schemes. This list shall not include products that are listed in Annex V.

However, in duly justified cases, such as where a Member State wants to ensure a broad assortment of products under its scheme or wants to make its scheme more attractive, its strategy may provide that such products may become eligible if only limited amounts of the substances referred to in that Annex are added.

Member States shall ensure that their competent health authorities endorse the list of such products that are eligible under their scheme.

Member States shall choose their products on the basis of objective criteria which may include health and environmental considerations, seasonality, variety or availability of produce, giving priority, as far as practicable, to products originating in the Union, and particularly to local purchasing, local markets, short supply chains or environmental benefits.

4. Measures on fixing the Union aid referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

5. The Union aid referred to in paragraph 1 shall be allocated to each Member State on the basis of objective criteria based on their proportion of six- to ten-year old children.

Member States participating in the scheme shall apply every year for Union aid on the basis of their strategy referred to in paragraph 2.

Measures on fixing the minimum amount of Union aid for each Member State participating in the scheme and on the indicative and definitive allocations of aid to Member States shall be taken by the Council in accordance with Article 43(3) TFEU.

6. Union aid provided for in paragraph 1 shall not be used to replace funding for any existing national school fruit schemes providing fruit and vegetables, processed fruit and vegetables, and bananas or other school distribution schemes that include such products.

However, if a Member State already has a scheme in place that would be eligible for Union aid under this Article and intends to extend it or make it more effective, including as regards the target group of the scheme, its duration or eligible products, Union aid may be granted provided that the limits set out in accordance with Article 43(3) TFEU are respected as regards the proportion of Union aid to the total national contribution. In such a case, the Member State shall indicate in its implementation strategy how it intends to extend its scheme or make it more effective.

7. Member States may, in addition to Union aid, grant national aid in accordance with Article 217.

8. The Union school fruit and vegetables scheme shall be without prejudice to any separate national school fruit and vegetables schemes which are compatible with Union law.

9. The Union may also finance, under Article 6 of Regulation (EU) No 1306/2013, information, monitoring and evaluation measures relating to the school fruit and vegetables scheme, including measures raising public awareness of it, and related networking measures.

10. Member States participating in the scheme shall publicise, at the places where the food is distributed, their involvement in the aid scheme and the fact that it is subsidised by the Union.

Article 24

Delegated powers

1. In order to promote the healthy eating habits of children and to ensure that the aid is aimed at children in the target group referred to in Article 22, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on:

- (a) the additional criteria related to the targeting of aid by Member States;
- (b) the approval and selection of aid applicants by Member States;
- (c) the drawing-up of the national or regional strategies and on accompanying measures.

2. In order to ensure the efficient and targeted use of Union funds, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) the method for reallocating the indicative allocation of aid referred to in Article 23(5) between Member States on the basis of requests for aid received;
- (b) the costs in Member States' strategies that are eligible for Union aid and the possibility of fixing an overall ceiling for specific costs;
- (c) the obligation for Member States to monitor and evaluate the effectiveness of their school fruit and vegetables schemes.

3. In order to promote awareness of the scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 requiring Member States with a school fruit and vegetables scheme to publicise the subsidising role of the Union aid.

Article 25

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Subsection, including:

- (a) the information to be contained in Member States' strategies;
- (b) the aid applications and payments;
- (c) the methods of publicising, and networking measures in respect of, the scheme;
- (d) the submission, format and content of monitoring and evaluation reports by Member States participating in the Union school fruit and vegetables scheme.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Subsection 2

School milk scheme

Article 26

Aid for the supply of milk and milk products to children

1. Union aid shall be granted for supplying to children in educational establishments referred to in Article 22 certain milk and processed milk products falling within CN codes 0401, 0403, 0404 90 and 0406 or CN code 2202 90.

2. From 1 August 2015, Member States, at national or regional level, wishing to participate in the scheme shall have a prior strategy for its implementation. They may also provide for the accompanying measures, which may include information on measures for education about healthy eating habits, about local food chains and about combating food wastage, that are necessary to make the programme effective.

3. When drawing up their strategies, Member States shall draw up a list of milk and milk products that will be eligible under their respective schemes, in accordance with the rules adopted by the Commission pursuant to Article 27.

4. Except for free distribution of meals to children in educational establishments, Union aid referred to in paragraph 1 shall not be used to replace funding for any existing national milk and milk products schemes or other school distribution schemes that include milk or milk products. However, if a Member State already has a scheme in place that would be eligible for Union aid under this Article and intends to extend it or make it more effective, including as regards the target group of the scheme, its duration or eligible products, Union aid may be granted. In such a case, the Member State shall indicate in its implementation strategy how it intends to extend its scheme or make it more effective.

5. Member States may, in addition to Union aid, grant national aid in accordance with Article 217.

6. The Union school milk and milk products scheme shall be without prejudice to any separate national school schemes to encourage the consumption of milk and milk products that are compatible with Union law.

7. Measures on fixing the Union aid for all milk and milk products and the maximum quantity eligible for Union aid provided for in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

8. Member States participating in the scheme shall publicise, at the places where the food is distributed, their involvement in the aid scheme and the fact that it is subsidised by the Union.

Article 27

Delegated powers

1. In order to take into account the evolution in consumption patterns for dairy products, the innovations and developments on the dairy products market, the availability of products on the different markets of the Union, and nutritional aspects, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 determining:

- (a) the products that are eligible for the scheme, in accordance with the provisions laid down in Article 26(1) and taking into account nutritional aspects;
- (b) the drawing up of the national or regional strategies by Member States, including accompanying measures where applicable; and
- (c) measures necessary for monitoring and evaluation.

2. In order to ensure the efficient and effective use of Union aid, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) rules on the eligibility for the aid of beneficiaries and applicants;
- (b) the requirement for the applicants to be approved by the Member States;
- (c) the use of dairy products benefiting from the aid in the preparation of meals in educational establishments.

3. In order to ensure that aid applicants respect their obligations, the Commission shall be empowered to adopt

delegated acts in accordance with Article 227 concerning the requirement to lodge a security where an advance of aid is paid.

4. In order to promote awareness of the aid scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 specifying the conditions in accordance with which Member States are to publicise their participation in the aid scheme and the fact that it is subsidised by the Union.

5. In order to ensure that the aid is reflected in the price at which the products are available under the scheme, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down rules on the establishment of price monitoring under the scheme.

Article 28

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Subsection including on:

- (a) the procedures to ensure the respect of the maximum quantity eligible for the aid;
- (b) the procedures for, and the amount of, the security to be lodged where an advance payment is made;
- (c) the information to be supplied to Member States for approval of applicants, aid applications and payments;
- (d) the methods of publicising the scheme;
- (e) the management of price monitoring pursuant to Article 27(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Aid in the olive oil and table olives sector

Article 29

Programmes to support the olive oil and table olives sector

1. The Union shall finance three-year work programmes to be drawn up by producer organisations recognised under Article 152, associations of producer organisations recognised under Article 156 or interbranch organisations recognised under Article 157 in one or more of the following areas:

- (a) market follow-up and management in the olive oil and table olives sector;

- (b) the improvement of the environmental impact of olive cultivation;
- (c) the improvement of the competitiveness of olive cultivation through modernisation;
- (d) the improvement of the production quality of olive oil and table olives;
- (e) the traceability system, the certification and protection of the quality of olive oil and table olives, in particular the monitoring of the quality of olive oils sold to final consumers, under the authority of the national administrations;
- (f) the dissemination of information on measures carried out by producer organisations, associations of producer organisations or interbranch organisations to improve the quality of olive oil and table olives.

2. The Union financing of the work programmes referred to in paragraph 1 shall be:

- (a) EUR 11 098 000 per year for Greece;
- (b) EUR 576 000 per year for France; and
- (c) EUR 35 991 000 per year for Italy.

3. The maximum Union funding for the work programmes referred to in paragraph 1 shall be equal to the amounts withheld by the Member States. The maximum funding of the eligible cost shall be:

- (a) 75 % for activities in the areas referred to in points (a), (b) and (c) of paragraph 1;
- (b) 75 % for fixed assets investments and 50 % for other activities in the area referred to in point (d) of paragraph 1;
- (c) 75 % for the work programmes carried out in at least three third countries or non-producing Member States by recognised organisations referred to in paragraph 1 from at least two producer Member States in the areas referred to in points (e) and (f) of paragraph 1, and 50 % for the other activities in these areas.

Complementary financing shall be ensured by the Member State up to 50 % of the costs not covered by the Union funding.

Article 30

Delegated powers

In order to ensure the efficient and effective use of the Union aid provided for in Article 29 and in order to improve the production quality of olive oil and table olives, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) in respect of the areas referred to in Article 29(1), the specific measures that can be financed by the Union aid and the activities and costs that cannot be so financed;

- (b) the minimum allocation by Member States of Union financing to specific areas;
- (c) the requirement to lodge a security when an application for approval of a work programme is submitted and where an advance payment of aid is made;
- (d) the criteria to be taken into account by Member States in the selection and approval of work programmes.

Article 31

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Section concerning:

- (a) the implementation of work programmes and amendments to such programmes;
- (b) the payment of aid, including advance payments of aid;
- (c) the procedures for, and the amount of, the security to be lodged when an application for approval of a work programme is submitted and where an advance payment of aid is made.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 3

Aid in the fruit and vegetables sector

Article 32

Operational funds

1. Producer organisations in the fruit and vegetables sector and/or their associations may set up an operational fund. The fund shall be financed by:

- (a) financial contributions from:
 - (i) members of the producer organisation and/or the producer organisation itself; or
 - (ii) associations of producer organisations through the members of those associations;
- (b) Union financial assistance, which may be granted to producer organisations, or to their associations where those associations present, manage and implement an operational programme or a partial operational programme, in accordance with the terms and conditions to be adopted by the Commission by means of delegated acts pursuant to Article 37 and implementing acts pursuant to Article 38.

2. Operational funds shall be used only to finance operational programmes that have been submitted to and approved by Member States.

Article 33

Operational programmes

1. Operational programmes in the fruit and vegetables sector shall have a minimum duration of three years and a maximum duration of five years. They shall have at least two of the objectives referred to in point (c) of Article 152(1) or two of the following objectives:

- (a) planning of production, including production and consumption forecasting and follow-up;
- (b) improvement of product quality, whether in a fresh or processed form;
- (c) boosting products' commercial value;
- (d) promotion of the products, whether in a fresh or processed form;
- (e) environmental measures, particularly those relating to water, and methods of production respecting the environment, including organic farming;
- (f) crisis prevention and management.

Operational programmes shall be submitted to the Member States for their approval.

2. Associations of producer organisations may also present an entire or partial operational programme composed of measures identified, but not carried out, by member organisations under their operational programmes. The operational programmes of associations of producer organisations shall be subject to the same rules as operational programmes of producer organisations and shall be considered with the operational programmes of member organisations.

To that end, the Member States shall ensure that:

- (a) measures under operational programmes of an association of producer organisations are entirely financed by contributions of those member organisations of that association and that such funding is collected from the operational funds of those member organisations;
- (b) the measures and their corresponding financial share are identified in the operational programme of each member organisation;
- (c) there is no duplication of funding.

3. Crisis prevention and management referred to in point (f) of the first subparagraph of paragraph 1 shall be related to avoiding and dealing with crises on the fruit and vegetable markets and shall cover in this context:

- (a) investments making the management of the volumes placed on the market more efficient;
- (b) training measures and exchanges of best practices;
- (c) promotion and communication, whether for prevention or during a crisis period;
- (d) support for the administrative costs of setting up mutual funds;
- (e) replanting of orchards where that is necessary following mandatory grubbing up for health or phytosanitary reasons on the instruction of the Member State competent authority;
- (f) market withdrawal;
- (g) green harvesting or non-harvesting of fruit and vegetables;
- (h) harvest insurance.

Support for harvest insurance shall contribute to safeguarding producers' incomes where there are losses as a consequence of natural disasters, adverse climatic events, diseases or pest infestations.

Insurance contracts shall require that beneficiaries undertake necessary risk prevention measures.

Crisis prevention and management measures, including any repayment of capital and interest as referred to in the fifth subparagraph, shall not comprise more than one third of the expenditure under the operational programme.

Producer organisations may take out loans on commercial terms for financing crisis prevention and management measures. In that case, the repayment of the capital and interest on those loans may form part of the operational programme and so may be eligible for Union financial assistance under Article 34. Any specific action under crisis prevention and management may be financed by such loans or directly, or both.

4. For the purposes of this Section:

- (a) "green harvesting" means the total harvesting on a given area of unripe non-marketable products which have not been damaged prior to the green harvesting, whether due to climatic reasons, disease or otherwise;
- (b) "non-harvesting" means the termination of the current production cycle on the area concerned where the product is well developed and is of sound, fair and marketable quality. Destruction of products due to a climatic event or disease is not considered as non-harvesting.

5. Member States shall ensure that:

- (a) operational programmes include two or more environmental actions; or
- (b) at least 10 % of the expenditure under operational programmes covers environmental actions.

Environmental actions shall respect the requirements for agri-environment-climate payments laid down in Article 28(3) of Regulation (EU) No 1305/2013.

Where at least 80 % of the producer members of a producer organisation are subject to one or more identical agri-environment-climate commitments provided for in Article 28(3) of Regulation (EU) No 1305/2013, then each one of those commitments shall count as an environmental action as referred to in point (a) of the first subparagraph of this paragraph.

Support for the environmental actions referred to in the first subparagraph of this paragraph shall cover additional costs and income foregone resulting from the action.

6. Member States shall ensure that investments which increase environmental pressure shall only be permitted in situations where effective safeguards to protect the environment from these pressures are in place.

Article 34

Union financial assistance

1. The Union financial assistance shall be equal to the amount of the financial contributions referred to in point (a) of Article 32(1) actually paid and limited to 50 % of the actual expenditure incurred.

2. The Union financial assistance shall be limited to 4,1 % of the value of the marketed production of each producer organisation or of their association.

However, in the case of producer organisations, that percentage may be increased to 4,6 % of the value of the marketed production, provided that the amount in excess of 4,1 % of the value of the marketed production is used solely for crisis prevention and management measures.

In the case of associations of producer organisations, that percentage may be increased to 4,7 % of the value of the marketed production, provided that the amount in excess of 4,1 % of the value of the marketed production is used solely for crisis prevention and management measures implemented by the association of producer organisations on behalf of its members.

3. At the request of a producer organisation, the 50 % limit provided for in paragraph 1 shall be increased to 60 % for an operational programme or part of an operational programme satisfying at least one of the following conditions:

- (a) it is submitted by several Union producer organisations operating in different Member States on transnational schemes;
- (b) it is submitted by one or more producer organisations engaged in schemes operated on an interbranch basis;
- (c) it covers solely specific support for the production of organic products covered by Council Regulation (EC) No 834/2007 ⁽¹⁾;
- (d) it is the first to be submitted by a recognised producer organisation which is the result of a merger between two recognised producer organisations;
- (e) it is the first to be submitted by a recognised association of producer organisations;
- (f) it is submitted by producer organisations in Member States where producer organisations market less than 20 % of fruit and vegetables production;
- (g) it is submitted by a producer organisation in one of the outermost regions referred to in Article 349 TFEU.

4. The 50 % limit provided for in paragraph 1 shall be increased to 100 % in the case of market withdrawals of fruit and vegetables which shall not exceed 5 % of the volume of marketed production of each producer organisation and which are disposed of by way of:

- (a) free distribution to charitable organisations and foundations, approved for that purpose by the Member States, for use in their activities to assist persons whose right to public assistance is recognised in national law, in particular because they lack the necessary means of subsistence; or
- (b) free distribution to any of the following: penal institutions, schools, establishments referred to in Article 22, children's holiday camps, hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments.

⁽¹⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

Article 35

National financial assistance

1. In regions of the Member States where the degree of organisation of producers in the fruit and vegetables sector is particularly low, the Commission may adopt implementing acts authorising Member States, at their duly substantiated request, to pay producer organisations national financial assistance equal to a maximum of 80 % of the financial contributions referred to in point (a) of Article 32(1). This assistance shall be additional to the operational fund.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. In regions of the Member States where producer organisations, associations of producer organisations and the producer groups referred to in Article 27 of Regulation (EU) No 1305/2013 market less than 15 % of the value of fruit and vegetable production of those regions, where fruit and vegetable production represents at least 15 % of the total agricultural output of those regions, the national financial assistance referred to in paragraph 1 of this Article may be reimbursed by the Union at the request of the Member State concerned.

The Commission shall adopt implementing acts concerning that reimbursement. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 36

National framework and national strategy for operational programmes

1. Member States shall establish a national framework containing general conditions relating to the environmental actions referred to in Article 33(5). That framework shall provide, in particular, that such actions are to meet the appropriate requirements of Regulation (EU) No 1305/2013, in particular those set out in Article 3 thereof.

Member States shall submit their proposed framework to the Commission which, by means of implementing acts adopted without applying the procedure referred to in Article 229(2) or (3), may within three months of the submission require modifications if it finds that the proposal would not contribute to the achievement of the objectives set out in Article 191 TFEU and in the seventh Union environment action programme. Investments on individual holdings supported by operational programmes shall also respect those objectives.

2. Each Member State shall establish a national strategy for sustainable operational programmes in the fruit and vegetable market. Such a strategy shall include:

(a) an analysis of the situation in terms of strengths and weaknesses and the potential for development;

(b) justification of the priorities chosen;

(c) the objectives of operational programmes and instruments, and performance indicators;

(d) assessment of operational programmes;

(e) reporting obligations for producer organisations.

The national strategy shall also integrate the national framework referred to in paragraph 1.

3. Paragraphs 1 and 2 shall not apply to Member States which have no recognised producer organisations.

Article 37

Delegated powers

In order to ensure an efficient, targeted and sustainable support of producer organisations and their associations in the fruit and vegetables sector, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing rules on:

(a) operational funds and operational programmes, concerning:

(i) the estimated amounts, the decisions by producer organisations and their associations on the financial contributions and the use of operational funds;

(ii) the measures, actions, expenditure and administrative and personnel costs to be included or excluded under operational programmes, the modification thereof and the additional requirements to be determined by Member States;

(iii) the avoidance of double funding between operational programmes and rural development programmes;

(iv) operational programmes of associations of producer organisations;

(v) the specific rules applicable to cases in which associations of producer organisations manage, process, implement and present, wholly or in part, operational programmes;

(vi) the obligation to use common indicators for the purposes of monitoring and evaluation of operational programmes;

(b) the national framework and national strategy for operational programmes concerning the obligation to monitor and evaluate the effectiveness of the national frameworks and the national strategies;

- (c) Union financial assistance, concerning:
- (i) the basis for the calculation of Union financial assistance and of the value of the marketed production, referred to in Article 34(2);
 - (ii) applicable reference periods for the calculation of aid;
 - (iii) the provision of advance payments and the requirement to lodge a security where an advance payment of aid is made;
 - (iv) the specific rules applicable to the financing of operational programmes of associations of producer organisations, particularly those relating to the application of the limits provided for in Article 34(2);
- (d) crisis prevention and management measures, concerning:
- (i) the possibility for Member States not to apply one or more crisis prevention and management measures;
 - (ii) conditions relating to points (a), (b) and (c) of the first subparagraph of Article 33(3);
 - (iii) permissible destinations to be decided by Member States for withdrawn products;
 - (iv) the maximum level of support for market withdrawals;
 - (v) the requirement for prior notifications in case of market withdrawals;
 - (vi) the basis of the calculation of the volume of marketed production for free distribution referred to in Article 34(4) and the determination of a maximum volume of marketed production in case of withdrawals;
 - (vii) the requirement to display the Union emblem on packages of products for free distribution;
 - (viii) the conditions for the recipients of withdrawn products;
 - (ix) the use of terms for the purposes of this Section;
 - (x) the conditions, to be adopted by Member States, relating to green harvesting and non-harvesting;
 - (xi) harvest insurance;
 - (xii) mutual funds; and
 - (xiii) the conditions relating to, and the fixing of a ceiling for expenditure on, the replanting of orchards for health or phytosanitary reasons in accordance with point (e) of the first subparagraph of Article 33(3);
- (e) national financial assistance, concerning:
- (i) the degree of organisation of producers;
 - (ii) the requirement to lodge a security where an advance payment is made;
 - (iii) the maximum proportion of Union reimbursement of the national financial assistance.
- Article 38*
- Implementing powers in accordance with the examination procedure**
- The Commission may adopt implementing acts laying down measures concerning:
- (a) the management of operational funds;
 - (b) the information to be contained in operational programmes, national frameworks and national strategies referred to in Article 36, the submission of operational programmes to Member States, time limits, accompanying documents and approval by Member States;
 - (c) the implementation of operational programmes by producer organisations and associations of producer organisations;
 - (d) the submission, format and content of monitoring and evaluation reports of national strategies and operational programmes;
 - (e) aid applications and payments of aid, including advance and partial payments of aid;
 - (f) the practical arrangements for the display of the Union emblem on packages of products for free distribution;
 - (g) the respect for marketing standards in case of withdrawals;
 - (h) transport, sorting and packaging costs in case of free distribution;
 - (i) promotion, communication and training measures in case of crisis prevention and management;
 - (j) the implementation of withdrawal operations, green harvesting, non-harvesting and harvest insurance measures;
 - (k) the application, authorisation, payment and reimbursement of the national financial assistance;
 - (l) the procedures for, and the amount of, the security to be lodged where an advance payment is made.
- Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 4

Support programmes in the wine sector

Subsection 1

General provisions and eligible measures

Article 39

Scope

This Section lays down the rules governing the attribution of Union funds to Member States and the use of those funds by Member States through five-year national support programmes ("support programmes") to finance specific support measures to assist the wine sector.

Article 40

Compatibility and consistency

1. Support programmes shall be compatible with Union law and shall be consistent with the activities, policies and priorities of the Union.

2. Member States shall be responsible for support programmes and shall ensure that they are internally consistent and that they are drawn up and implemented in an objective manner, taking into account the economic situation of the producers concerned and the need to avoid unjustified unequal treatment of producers.

3. No support shall be granted for:

- (a) research projects and measures to support research projects other than those referred to in points (d) and (e) of Article 45(2);
- (b) measures contained in Member States' rural development programmes under Regulation (EU) No 1305/2013.

Article 41

Submission of support programmes

1. Each producer Member State listed in Annex VI shall submit to the Commission a draft five-year support programme containing at least one of the eligible measures set out in Article 38.

2. The support measures in the draft support programmes shall be drawn up at the geographical level which the Member State considers most appropriate. The Member State shall consult the competent authorities and organisations at the appropriate territorial level on the draft support programme before submitting it to the Commission.

3. Each Member State shall submit a single draft support programme, which may take into account regional particularities.

4. Support programmes shall become applicable three months after the submission of the draft support programme to the Commission.

However, the Commission may adopt implementing acts establishing that the submitted draft support programme does not comply with the rules laid down in this Section, and shall inform the Member State thereof. In such a case, the Member State shall submit a revised draft support programme to the Commission. The revised support programme shall become applicable two months after the submission of the draft revised support programme unless an incompatibility persists, in which case this subparagraph shall apply.

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

5. Paragraph 4 shall apply mutatis mutandis to changes in respect of applicable support programmes submitted by Member States.

Article 42

Content of support programmes

Support programmes shall include at least the following elements:

- (a) a detailed description of the measures proposed, as well as their quantified objectives;
- (b) the results of consultations held;
- (c) an appraisal showing the expected technical, economic, environmental and social impact;
- (d) a schedule for implementing the measures;
- (e) a general financing table showing the resources to be deployed and the envisaged indicative allocation of the resources between the measures in accordance with the budgetary limits provided for in Annex VI;
- (f) the criteria and quantitative indicators to be used for monitoring and evaluation as well as the steps taken to ensure that the support programmes are implemented appropriately and effectively; and
- (g) the designation of competent authorities and bodies responsible for implementing the support programme.

Article 43

Eligible measures

Support programmes may contain only one or more of the following measures:

- (a) promotion, in accordance with Article 45;
- (b) restructuring and conversion of vineyards, in accordance with Article 46;
- (c) green harvesting, in accordance with Article 47;

- (d) mutual funds, in accordance with Article 48;
- (e) harvest insurance, in accordance with Article 49;
- (f) investments, in accordance with Article 50;
- (g) innovation in the wine sector, in accordance with Article 51;
- (h) by-product distillation, in accordance with Article 52.

Article 44

General rules concerning support programmes

1. The available Union funds shall be allocated within the budgetary limits provided for in Annex VI.
2. Union support shall only be granted for eligible expenditure incurred after the submission of the relevant draft support programme.
3. Member States shall not contribute to the costs of measures financed by the Union under the support programmes.

Subsection 2

Specific support measures

Article 45

Promotion

1. Support under this Article shall cover information or promotion measures concerning Union wines:
 - (a) in Member States, with a view to informing consumers about the responsible consumption of wine and about the Union systems covering designations of origin and geographical indications; or
 - (b) in third countries, with a view to improving their competitiveness.
2. The measures referred to in point (b) of paragraph 1 shall apply to wines with a protected designation of origin or a protected geographical indication or wines with an indication of the wine grape variety and shall consist only of one or more of the following:
 - (a) public relations, promotion or advertisement measures, in particular highlighting the high standards of the Union products, especially in terms of quality, food safety or the environment;
 - (b) participation at events, fairs or exhibitions of international importance;
 - (c) information campaigns, in particular on the Union systems covering designations of origin, geographical indications and organic production;

- (d) studies of new markets, necessary for the expansion of market outlets;
- (e) studies to evaluate the results of the information and promotion measures.

3. The Union contribution to information or promotion measures referred to in paragraph 1 shall not exceed 50 % of the eligible expenditure.

Article 46

Restructuring and conversion of vineyards

1. The objective of measures relating to the restructuring and conversion of vineyards shall be to increase the competitiveness of wine producers.
2. The restructuring and conversion of vineyards shall be supported if Member States submit the inventory of their production potential in accordance with Article 145(3).
3. Support for the restructuring and conversion of vineyards, which could also contribute to improving sustainable production systems and the environmental footprint of the wine sector, may only cover one or more of the following activities:
 - (a) varietal conversion, including by means of grafting-on;
 - (b) relocation of vineyards;
 - (c) replanting of vineyards where that is necessary following mandatory grubbing up for health or phytosanitary reasons on the instruction of the Member State competent authority;
 - (d) improvements to vineyard management techniques, in particular the introduction of advanced systems of sustainable production.

The normal renewal of vineyards, which means the replanting of the same parcel of land with the same wine grape variety according to the same system of vine cultivation, when vines have come to the end of their natural life, shall not be supported.

Member States may lay down further specifications, especially as regards the age of the vineyards replaced.

4. Support for the restructuring and conversion of vineyards, including improving vineyard management techniques, may only take the following forms:
 - (a) compensation to producers for the loss of revenue due to the implementation of the measure;
 - (b) contribution to the costs of restructuring and conversion.

5. Compensation to producers for the loss of revenue referred to in point (a) of paragraph 4 may cover up to 100 % of the relevant loss and take one of the following forms:

(a) notwithstanding Subsection II of Section IVa of Chapter III of Title I of Part II of Regulation (EC) No 1234/2007 setting out the transitional planting right regime, the permission for old and new vines to coexist until the end of the transitional regime for a maximum period which shall not exceed three years;

(b) financial compensation.

6. The Union contribution to the actual costs of the restructuring and conversion of vineyards shall not exceed 50 %. In less developed regions, the Union contribution to the costs of restructuring and conversion shall not exceed 75 %.

Article 47

Green harvesting

1. For the purposes of this Article, "green harvesting" means the total destruction or removal of grape bunches while still in their immature stage, thereby reducing the yield of the relevant area to zero.

Leaving commercial grapes on the plants at the end of the normal production cycle (non-harvesting) shall not be considered to be green harvesting.

2. Support for green harvesting shall contribute to restoring the balance of supply and demand in the Union wine market in order to prevent market crises.

3. Support for green harvesting may be granted as compensation in the form of a flat rate payment per hectare to be determined by the Member State concerned. The payment shall not exceed 50 % of the sum of the direct costs of the destruction or removal of grape bunches and the loss of revenue related to such destruction or removal.

4. The Member State concerned shall establish a system based on objective criteria to ensure that the green harvesting measure does not lead to compensation of individual wine producers in excess of the ceiling fixed in paragraph 3.

Article 48

Mutual funds

1. Support for the setting up of mutual funds shall provide assistance to producers seeking to insure themselves against market fluctuations.

2. Support for the setting up of mutual funds may be granted in the form of temporary and degressive aid to cover the administrative costs of the funds.

Article 49

Harvest insurance

1. Support for harvest insurance shall contribute to safeguarding producers' incomes where there are losses as a consequence of natural disasters, adverse climatic events, diseases or pest infestations.

Insurance contracts shall require that beneficiaries undertake necessary risk prevention measures.

2. Support for harvest insurance may be granted in the form of a Union financial contribution which shall not exceed:

(a) 80 % of the cost of the insurance premiums paid for by producers for insurance against losses resulting from adverse climatic events which can be assimilated to natural disasters;

(b) 50 % of the cost of the insurance premiums paid for by producers for insurance:

(i) against losses referred to in point (a) and against other losses caused by adverse climatic events;

(ii) against losses caused by animals, plant diseases or pest infestations.

3. Support for harvest insurance may be granted if the insurance payments concerned do not compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers may have obtained from other support schemes related to the insured risk.

4. Support for harvest insurance shall not distort competition in the insurance market.

Article 50

Investments

1. Support may be granted for tangible or intangible investments in processing facilities and winery infrastructure, as well as marketing structures and tools. Those investments shall be intended to improve the overall performance of the enterprise and its adaptation to market demands, as well as to increase its competitiveness, and shall concern the production or marketing of grapevine products referred to in Part II of Annex VII, including with a view to improving energy savings, global energy efficiency and sustainable processes.

2. Support under paragraph 1 at its maximum rate:

(a) shall apply only to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC ⁽¹⁾;

⁽¹⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

(b) may, in addition, apply to all enterprises for the outermost regions referred to in Article 349 TFEU and the smaller Aegean islands as defined in Article 1(2) of Regulation (EU) No 229/2013 of the European Parliament and of the Council ⁽¹⁾.

For enterprises not covered by Article 2(1) of Title I of the Annex to Recommendation 2003/361/EC with fewer than 750 employees, or with a turnover of less than EUR 200 million, the maximum aid intensity shall be halved.

Support shall not be granted to enterprises in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty ⁽²⁾.

3. The eligible expenditure shall exclude the non-eligible costs referred to in Article 69(3) of Regulation (EU) No 1303/2013.

4. The following maximum aid rates concerning the eligible investment costs shall apply to the Union contribution:

- (a) 50 % in less developed regions;
- (b) 40 % in regions other than less developed regions;
- (c) 75 % in the outermost regions referred to in Article 349 TFEU;
- (d) 65 % in the smaller Aegean islands as defined in Article 1(2) of Regulation (EU) No 229/2013.

5. Article 71 of Regulation (EU) No 1303/2013 shall apply *mutatis mutandis* to support referred to in paragraph 1 of this Article.

Article 51

Innovation in the wine sector

Support may be granted for tangible or intangible investments aimed at the development of new products, processes and technologies concerning the products referred to in Part II of Annex VII. The support shall be intended to increase the marketability and competitiveness of Union grapevine products and may include an element of knowledge transfer. The maximum aid rates concerning the Union contribution to the support provided under this Article shall be the same as those set out in Article 50(4).

⁽¹⁾ Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

⁽²⁾ OJ C 244, 1.10.2004, p. 2.

Article 52

By-product distillation

1. Support may be granted for the voluntary or obligatory distillation of by-products of wine making which has been carried out in accordance with the conditions laid down in Section D of Part II of Annex VIII.

The amount of aid shall be fixed per % volume and per hectolitre of alcohol produced. No aid shall be paid for the volume of alcohol contained in the by-products to be distilled which exceeds 10 % in relation to the volume of alcohol contained in the wine produced.

2. The aid shall be paid to distillers that process by-products of winemaking delivered for distillation into raw alcohol with an alcoholic strength of at least 92 % by volume.

Member States may make the granting of support conditional upon the lodging of a security by the beneficiary.

3. The maximum applicable aid levels shall be based on collection and processing costs and shall be fixed by the Commission by means of implementing acts pursuant to Article 54.

4. The relevant aid shall include a lump-sum amount to compensate for the costs of collection of the by-products of winemaking. That amount shall be transferred from the distiller to the producer, where the relevant costs are borne by the latter.

5. The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes to avoid distortion of competition.

Subsection 3

Procedural provisions

Article 53

Delegated powers

In order to ensure that Member States' wine support programmes meet their objectives and that there is an efficient and effective use of Union funds, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing:

- (a) rules on the responsibility for expenditure between the date of receipt by the Commission of the support programmes and modifications to support programmes, and their date of applicability;
- (b) rules on the content of support programmes and the expenditure, administrative and personnel costs and operations that may be included in Member States' support programmes and the conditions for, and the possibility to make, payments through intermediaries in the case of support for harvest insurance provided for in Article 49;

(c) rules on the requirement to lodge a security where an advance payment is made;

(d) rules on the use of terms for the purposes of this Section;

(e) rules on the fixing of a ceiling for expenditure on the replanting of vineyards for health or phytosanitary reasons in accordance with point (c) of the first subparagraph of Article 46(3);

(f) rules on the avoidance of double funding between:

(i) the different operations of a Member State's wine support programme, and

(ii) a Member State's wine support programme and its rural development or promotional programmes;

(g) rules under which producers are to withdraw the by-products of winemaking, and on exceptions to that obligation in order to avoid additional administrative burden, and rules for the voluntary certification of distillers;

(h) rules allowing Member States to establish conditions for the proper functioning of support measures in their programmes.

Article 54

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down measures concerning:

(a) the submission of the support programmes, the corresponding financial planning and revision of support programmes;

(b) application, selection and payment procedures;

(c) the submission, format and content of the reports and evaluations of Member States' support programmes;

(d) the fixing, by Member States, of the rates of aid for green harvesting and by-product distillation;

(e) financial management and provisions concerning the application of the support measures by the Member States;

(f) the procedures for, and the amount of, the security to be lodged where an advance payment is made.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 5

Aid in the apiculture sector

Article 55

National programmes and financing

1. With a view to improving general conditions for the production and marketing of apiculture products, Member States may draw up national programmes for the apiculture sector covering a period of three years ("apiculture programmes"). These programmes shall be developed in cooperation with representative organisations in the beekeeping field.

2. The Union contribution to the apiculture programmes shall be equivalent to 50 % of the expenditure borne by Member States for those programmes, as approved in accordance with point (c) of the first paragraph of Article 57.

3. To be eligible for the Union contribution provided for in paragraph 2, Member States shall carry out a study of the production and marketing structure in the beekeeping sector in their territory.

4. The following measures may be included in apiculture programmes:

(a) technical assistance to beekeepers and beekeepers' organisations;

(b) combating beehive invaders and diseases, particularly varroasis;

(c) rationalisation of transhumance;

(d) measures to support laboratories for the analysis of apiculture products with the aim of helping beekeepers to market and increase the value of their products;

(e) measures to support the restocking of hives in the Union;

(f) cooperation with specialised bodies for the implementation of applied research programmes in the field of beekeeping and apiculture products;

(g) market monitoring;

(h) enhancement of product quality with a view to exploiting the potential of products on the market.

Article 56

Delegated powers

1. In order to ensure the effective and efficient use of Union funds for apiculture, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on:

(a) the avoidance of double funding between Member States' apiculture programmes and rural development programmes;

(b) the basis for allocating the Union's financial contribution to each participating Member State, based, *inter alia*, on the total number of bee hives in the Union.

2. In order to ensure that the Union aid scheme is adapted to the latest developments and that the measures covered are effective in improving the general conditions for the production and marketing of apiculture products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to update the list of measures referred to in Article 55(4) that may be included in Member States' apiculture programmes, by adding other measures or adapting those measures without deleting any of them. That update of the list of measures shall not affect national programmes adopted prior to the entry into force of the delegated act.

Article 57

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Section concerning:

- (a) the content of national programmes and of the studies carried out by Member States on the production and marketing structure of their beekeeping sectors;
- (b) the procedure for the reallocation of unused funds;
- (c) the approval of apiculture programmes submitted by Member States, including the allocation of the Union's financial contribution to each participating Member State and the maximum level of funding by Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 6

Aid in the hops sector

Article 58

Aid to producer organisations

1. The Union shall grant an aid to producer organisations in the hops sector recognised in accordance with Article 152 to finance the pursuit of the aims referred to in points (c)(i), (ii) or (iii) of Article 152(1).
2. The Union financing for the aid to producer organisations provided for in paragraph 1 shall be EUR 2 277 000 per year for Germany.

Article 59

Delegated powers

In order to ensure that the aid referred to in Article 58 finances the pursuit of the aims referred to in Article 152, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) aid applications, including rules on deadlines and accompanying documents;

(b) rules on eligible hop areas and the calculation of the amounts to be paid to each producer organisation.

Article 60

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Section concerning the payment of aid.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER III

Scheme of authorisations for vine plantings

Article 61

Duration

The scheme of authorisations for vine plantings established in this Chapter shall apply from 1 January 2016 to 31 December 2030, with a mid-term review to be undertaken by the Commission to evaluate the operation of the scheme and, if appropriate, make proposals.

Section 1

Management of the scheme of authorisations for vine plantings

Article 62

Authorisations

1. Vines of wine grape varieties classified in accordance with Article 81(2) may only be planted or replanted if an authorisation is granted in accordance with Articles 64, 66 and 68 under the conditions laid down in this Chapter.
2. Member States shall grant the authorisation referred to in paragraph 1, corresponding to a specific area expressed in hectares, upon submission of an application by producers which complies with objective and non-discriminatory eligibility criteria. Such authorisation shall be granted without a fee being charged to the producers.
3. The authorisations referred to in paragraph 1 shall be valid for three years from the date on which they were granted. A producer who has not used an authorisation granted during its period of validity shall be subject to administrative penalties as provided for in Article 89(4) of Regulation (EU) No 1306/2013.
4. This Chapter shall not apply to the planting or replanting of areas intended for experimental purposes or for graft nurseries, to areas whose wine or vine products are intended solely for the consumption by the wine-grower's household or to areas to be newly planted as a result of compulsory purchases in the public interest under national law.

*Article 63***Safeguard mechanism for new plantings**

1. Member States shall make available each year authorisations for new plantings corresponding to 1 % of the total area actually planted with vines in their territory, as measured on 31 July of the previous year.

2. Member States may:

- (a) apply at national level a lower percentage than the percentage set out in paragraph 1;
- (b) limit the issuing of authorisations at regional level, for specific areas eligible for the production of wines with a protected designation of origin, for areas eligible for the production of wines with a protected geographical indication, or for areas without a geographical indication.

3. Any of the limitations referred to in paragraph 2 shall contribute to an orderly growth of vine plantings, shall be set above 0 %, and shall be justified on one or more of the following specific grounds:

- (a) the need to avoid a well-demonstrated risk of oversupply of wine products in relation to market prospects for those products, not exceeding what is necessary to satisfy this need;
- (b) the need to avoid a well-demonstrated risk of significant devaluation of a particular protected designation of origin or a protected geographical indication.

4. Member States shall make public any decisions adopted pursuant to paragraph 2, which shall be duly justified. Member States shall notify the Commission forthwith of those decisions and justifications.

*Article 64***Granting of authorisations for new plantings**

1. If the total area covered by the eligible applications in a given year does not exceed the area made available by the Member State, all such applications shall be accepted.

Member States may, for the purpose of this Article, apply one or more of the following objective and non-discriminatory eligibility criteria:

- (a) the applicant shall have an agricultural area which is not smaller than the area for which he requests the authorisation;
- (b) the applicant shall possess adequate occupational skills and competence;

(c) the application shall not pose a significant risk of misappropriation of the reputation of specific protected designations of origin, which shall be presumed unless the existence of such risk is demonstrated by the public authorities;

(d) where duly justified, one or more of the criteria referred to in paragraph 2, provided that they are applied in an objective and non-discriminatory manner.

2. If the total area covered by the eligible applications referred to in paragraph 1 in a given year exceeds the area made available by the Member State, authorisations shall be granted according to a pro-rata distribution of hectares to all applicants on the basis of the area for which they have requested the authorisation. Such granting may also be partially or completely made according to one or more of the following objective and non-discriminatory priority criteria:

- (a) producers who are setting up vine plantings for the first time, and who are established as the head of the holding (new entrants);
- (b) areas where vineyards contribute to the preservation of the environment;
- (c) areas to be newly planted in the framework of land consolidation projects;
- (d) areas facing natural or other specific constraints;
- (e) the sustainability of projects of development or replantations on the basis of an economic evaluation;
- (f) areas to be newly planted which contribute to increasing the competitiveness at farm holding and regional level;
- (g) projects with the potential to improve the quality of products with geographical indications;
- (h) areas to be newly planted in the framework of increasing the size of small and medium-sized holdings.

3. Member States shall make public the criteria referred to in paragraphs 1 and 2 that they apply and shall notify them forthwith to the Commission.

*Article 65***Role of professional organisations**

When applying Article 63(2), a Member State may take into account recommendations presented by recognised professional organisations operating in the wine sector referred to in Articles 152, 156 and 157, of interested groups of producers referred to in Article 95, or of other types of professional organisation

recognised on the basis of that Member State's legislation, provided that those recommendations are preceded by an agreement entered into by the relevant representative parties in the reference geographical area.

The recommendations shall be made for no more than three years.

Article 66

Replantings

1. Member States shall automatically grant an authorisation to producers who have grubbed up an area planted with vines as from 1 January 2016 and submitted an application. Such authorisation shall correspond to the equivalent of that area in terms of pure crop. The areas covered by such authorisations shall not be counted for the purposes of Article 63.

2. Member States may grant the authorisation referred to in paragraph 1 to producers undertaking to grub up an area planted with vines if the grubbing up of the pledged area is carried out at the latest by the end of the fourth year from the date on which new vines have been planted.

3. The authorisation referred to in paragraph 1 shall be used on the same holding on which the grubbing up was undertaken. Member States may, in areas eligible for the production of wines with protected designations of origin or protected geographical indications, restrict the replanting, on the basis of a recommendation from a professional organisation in accordance with Article 65, to vines complying with the same protected designation of origin or geographical indication specification as the area grubbed up.

4. This Article shall not apply in the case of grubbing up of non-authorised plantings.

Article 67

De minimis

1. The scheme of authorisations for vine plantings established in this Chapter shall not apply in Member States where the transitional planting right regime established in Subsection II of Section IVa of Chapter III of Title I of Part II of Regulation (EC) No 1234/2007 did not apply on 31 December 2007.

2. Member States to which the regime referred to in paragraph 1 applied on 31 December 2007, and in respect of which the areas currently planted with vines do not exceed 10 000 hectares, may decide not to implement the scheme of authorisations for vine plantings established in this Chapter.

Article 68

Transitional provisions

1. Planting rights granted to producers in accordance with Article 85h, Article 85i or Article 85k of Regulation (EC) No 1234/2007 before 31 December 2015 which have not

been used by those producers and are still valid by that date may be converted into authorisations under this Chapter as from 1 January 2016.

Such conversion shall take place upon a request to be submitted by those producers before 31 December 2015. Member States may decide to allow producers to submit such a request to convert rights into authorisations until 31 December 2020.

2. Authorisations granted pursuant to paragraph 1 shall have the same period of validity as the planting rights referred to in paragraph 1. If these authorisations are not used, they shall expire at the latest by 31 December 2018, or, where a Member State has taken the decision referred to in the second subparagraph of paragraph 1, at the latest by 31 December 2023.

3. The areas covered by the authorisations granted pursuant to paragraph 1 shall be not be counted for the purposes of Article 63.

Article 69

Delegated powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) the conditions for the application of the exemption referred to in Article 62(4);
- (b) the rules relating to the criteria referred to in Article 64(1) and (2);
- (c) the addition of criteria to those listed in Article 64(1) and (2);
- (d) the co-existence of vines that the producer has undertaken to grub up with newly planted vines pursuant to Article 66(2);
- (e) the grounds for Member State decisions under Article 66(3).

Article 70

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the necessary measures in relation to:

- (a) the procedures for granting the authorisations;
- (b) the records to be kept by the Member States and notifications to be sent to the Commission.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Control of the scheme of authorisations for vine plantings

Article 71

Non-authorised plantings

1. Producers shall grub up at their own cost areas planted with vines without an authorisation.

2. If producers do not grub up within four months from the date on which they are notified of the irregularity, Member States shall ensure the grubbing up of such non-authorised plantings within two years following the expiry of the four-month period. The relevant cost shall be charged to the producers concerned.

3. Member States shall communicate to the Commission by 1 March each year the total size of the areas ascertained as planted with vines without an authorisation after 1 January 2016, as well as the areas grubbed up in accordance with paragraphs 1 and 2.

4. A producer who has not complied with the obligation laid down in paragraph 1 of this Article shall be subject to penalties to be laid down in accordance with Article 64 of Regulation (EU) No 1306/2013.

5. Areas planted with vines without an authorisation shall not benefit from any national or Union support measures.

Article 72

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down necessary measures setting out the details of the communication requirements that Member States are to comply with, including possible reductions of the budgetary limits provided for in Annex VI in the case of non-compliance.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

TITLE II

RULES CONCERNING MARKETING AND PRODUCER ORGANISATIONS

CHAPTER I

Rules concerning marketing

Section 1

Marketing standards

Subsection 1

Introductory provisions

Article 73

Scope

Without prejudice to any other provisions applicable to agricultural products, as well as to the provisions adopted in the

veterinary, phytosanitary and food sectors to ensure that products comply with hygiene and health standards and to protect animal, plant and human health, this Section lays down the rules concerning marketing standards. Those rules shall be divided between obligatory rules and optional reserved terms for agricultural products.

Subsection 2

Marketing standards by sectors or products

Article 74

General principle

The products for which marketing standards by sectors or products have been laid down in accordance with this Section may be marketed in the Union only if they conform to those standards.

Article 75

Establishment and content

1. Marketing standards may apply to one or more of the following sectors and products:

- (a) olive oil and table olives;
- (b) fruit and vegetables;
- (c) processed fruit and vegetable products;
- (d) bananas;
- (e) live plants;
- (f) eggs;
- (g) poultrymeat;
- (h) spreadable fats intended for human consumption;
- (i) hops.

2. In order to take into account the expectations of consumers and to improve the economic conditions for the production and marketing as well as the quality of the agricultural products covered by paragraphs 1 and 4 of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on marketing standards by sectors or products, at all stages of the marketing, as well as derogations and exemptions from such standards in order to adapt to constantly changing market conditions, to evolving consumer demands, to developments in relevant international standards and to avoid creating obstacles to product innovation.

3. Without prejudice to Article 26 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council ⁽¹⁾, the marketing standards referred to in paragraph 1 may cover one or more of the following, to be determined on a sectoral or product basis and based on the characteristics of each sector, the need to regulate the placing on the market and the conditions defined in paragraph 5 of this Article:

- (a) the technical definitions, designation and sales descriptions for sectors other than those set out in Article 78;
- (b) classification criteria such as grading into classes, weight, sizing, age and category;
- (c) the species, plant variety or animal race or the commercial type;
- (d) the presentation, labelling linked to obligatory marketing standards, packaging, rules to be applied in relation to packing centres, marking, year of harvesting and use of specific terms, without prejudice to Articles 92 to 123;
- (e) criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content;
- (f) specific substances used in production, or components or constituents, including their quantitative content, purity and identification;
- (g) the type of farming and production method including oenological practices and advanced systems of sustainable production;
- (h) coupage of must and wine including definitions thereof, blending and restrictions thereof;
- (i) the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport;
- (j) the place of farming and/or origin, excluding poultrymeat and spreadable fats;
- (k) restrictions as regards the use of certain substances and practices;

(l) specific use;

(m) the conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards adopted pursuant to paragraph 1 or with the definitions, designations and sales descriptions as referred to in Article 78, as well as the disposal of by-products.

4. In addition to paragraph 1, marketing standards may apply to the wine sector. Points (f), (g), (h), (k) and (m) of paragraph 3 shall apply to that sector.

5. The marketing standards by sectors or products adopted pursuant to paragraph 1 of this Article shall be established without prejudice to Articles 84 to 88 and Annex IX and shall take into account:

- (a) the specific characteristics of the product concerned;
- (b) the need to ensure the conditions to facilitate the placing of the products on the market;
- (c) the interest of producers to communicate the product and farming characteristics, and the interest of consumers to receive adequate and transparent product information, including the place of farming to be determined on a case-by-case basis at the appropriate geographical level, after conducting an evaluation, in particular, of the costs and administrative burdens for operators and the benefits offered to producers and the end consumer;
- (d) the methods available for determining physical, chemical and organoleptic characteristics of the products;
- (e) the standard recommendations adopted by international bodies;
- (f) the need to preserve the natural and essential characteristics of products and to avoid causing a substantial change in the composition of the product concerned.

6. In order to take into account the expectations of consumers and the need to improve the quality and the economic conditions for the production and marketing of agricultural products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to modify the list of sectors in paragraph 1. Such delegated acts shall be strictly limited to demonstrated needs resulting from evolving consumer demand, technical progress or the need for product innovation, and shall be subject to a Commission report to the European Parliament and to the Council evaluating, in particular, the needs of the consumer, the costs and administrative burdens for operators, including the impact on the internal market and on international trade, and the benefits offered to producers and to the end consumer.

⁽¹⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

*Article 76***Additional requirements for marketing of products in the fruit and vegetables sector**

1. In addition, where relevant, to the applicable marketing standards referred to in Article 75, products of the fruit and vegetables sector which are intended to be sold fresh to the consumer may only be marketed if they are sound, fair and of marketable quality and if the country of origin is indicated.

2. The marketing standards referred to in paragraph 1, as well as any marketing standard applicable to the fruit and vegetables sector laid down in accordance with this subsection, shall apply at all marketing stages including import and export, and may cover quality, categorisation, weight, size, packing, packaging, storage, transport, presentation and marketing.

3. The holder of products of the fruit and vegetables sector covered by marketing standards shall not display such products, offer them for sale or deliver or market them in any manner within the Union other than in conformity with those standards and shall be responsible for ensuring such conformity.

4. In order to ensure the proper application of requirements set out in paragraph 1 of this Article and to take into account certain specific situations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning specific derogations to this Article which are necessary for its proper application.

*Article 77***Certification for hops**

1. In addition, where relevant, to the applicable marketing standards, products of the hops sector harvested or prepared within the Union shall be subject to a certification procedure under this Article.

2. Certificates may be issued only for products having the minimum quality characteristics appropriate to a specific stage of marketing. In the case of hop powder, hop powder with higher lupulin content, extract of hops and mixed hop products, the certificate may only be issued if the alpha acid content of these products is not lower than that of the hops from which they have been prepared.

3. The certificates shall at least indicate:

- (a) the place(s) of production of the hops;
- (b) the year(s) of harvesting; and
- (c) the variety or varieties.

4. Products of the hops sector may be marketed or exported only if covered by a certificate issued in accordance with this Article.

In the case of imported products of the hops sector, the attestation provided for in Article 190(2) shall be deemed to be equivalent to that certificate.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down measures derogating from paragraph 4 of this Article:

- (a) in order to satisfy the trade requirements of certain third countries; or
- (b) for products intended for special uses.

The measures referred to in the first subparagraph shall:

- (i) not prejudice the normal marketing of products for which the certificate has been issued; and
- (ii) be accompanied by guarantees intended to avoid any confusion with those products.

*Article 78***Definitions, designations and sales descriptions for certain sectors and products**

1. In addition, where relevant, to the applicable marketing standards, the definitions, designations and sales descriptions provided for in Annex VII shall apply to the following sectors or products:

- (a) beef and veal;
- (b) wine;
- (c) milk and milk products intended for human consumption;
- (d) poultrymeat;
- (e) eggs;
- (f) spreadable fats intended for human consumption; and
- (g) olive oil and table olives.

2. The definitions, designations or sales descriptions provided for in Annex VII may be used in the Union only for the marketing of a product which conforms to the corresponding requirements laid down in that Annex.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the modifications, derogations or exemptions to the definitions and sales descriptions provided for in Annex VII. Those delegated acts shall be strictly limited to demonstrated needs resulting from evolving consumer demand, technical progress or the need for product innovation.

4. In order to ensure that operators and Member States have a clear and proper understanding of the definitions and sales descriptions provided for in Annex VII, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the rules on their specification and application.

5. In order to take into account the expectations of consumers and the evolution of the milk products market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to specify the milk products in respect of which the animal species from which the milk originates is to be stated, if it is not bovine, and to lay down the necessary rules.

Article 79

Tolerance

1. In order to take into account the specific characteristics of each product or sector, the different marketing stages, the technical conditions, any possible considerable practical difficulty, and also the accuracy and repeatability of the methods of analysis, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on tolerance for one or more specific standards in excess of which the entire batch of products shall be considered not to respect that standard.

2. When adopting the acts referred to in paragraph 1, the Commission shall take into account the need not to alter the intrinsic characteristics of the product and to avoid lowering its quality.

Article 80

Oenological practices and methods of analyses

1. Only oenological practices authorised in accordance with Annex VIII and provided for in point (g) of Article 75(3) and in Article 83(2) and (3) shall be used in the production and conservation of the products listed in Part II of Annex VII in the Union.

The first subparagraph shall not apply to:

- (a) grape juice and concentrated grape juice; and
- (b) grape must and concentrated grape must intended for the preparation of grape juice.

Authorised oenological practices shall only be used for the purposes of ensuring proper vinification, proper preservation or proper refinement of the product.

Products listed in Part II of Annex VII shall be produced in the Union in accordance with the rules laid down in Annex VIII.

2. Products listed in Part II of Annex VII shall not be marketed in the Union if:

- (a) they have undergone unauthorised Union oenological practices;
- (b) they have undergone unauthorised national oenological practices; or
- (c) they do not comply with the rules laid down in Annex VIII.

The grapevine products which are unmarketable in accordance with the first subparagraph shall be destroyed. By way of derogation from this rule, Member States may authorise the use of certain of such products, the characteristics of which they shall determine, by distilleries or vinegar factories or for industrial purposes, provided that this authorisation does not become an incentive to produce grapevine products by means of unauthorised oenological practices.

3. When authorising oenological practices for wine as referred to in point (g) of Article 75(3), the Commission shall:

- (a) take into account the oenological practices and methods of analyses recommended and published by the OIV, as well as the results of experimental use of as-yet unauthorised oenological practices;
- (b) take into account the protection of human health;
- (c) take into account the possible risk of consumers being misled due to their well established perception of the product and their corresponding expectations, having regard to the availability and feasibility of informational means to exclude such risks;
- (d) allow the preservation of the natural and essential characteristics of the wine and not cause a substantial change in the composition of the product concerned;
- (e) ensure an acceptable minimum level of environmental care;
- (f) respect the general rules concerning oenological practices and the rules laid down in Annex VIII.

4. In order to ensure the correct treatment of unmarketable wine products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on the national procedures referred to in the second subparagraph of paragraph 2 of this Article, and derogations therefrom concerning the withdrawal or destruction of wine products that do not comply with the requirements.

5. The Commission shall, where necessary, adopt implementing acts laying down the methods referred to in point (d) of Article 75(5) for products listed in Part II of Annex VII. Those methods shall be based on any relevant methods recommended and published by the OIV, unless they would be ineffective or inappropriate in view of the objective pursued by the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Pending the adoption of such implementing acts, the methods and rules to be used shall be those allowed by the Member State concerned.

Article 81

Wine grape varieties

1. Products listed in Part II of Annex VII and produced in the Union shall be made from wine grape varieties classifiable in accordance with paragraph 2 of this Article.

2. Subject to paragraph 3, Member States shall classify which wine grape varieties may be planted, replanted or grafted on their territories for the purpose of wine production.

Only wine grape varieties meeting the following conditions may be classified by Member States:

(a) the variety concerned belongs to the species *Vitis vinifera* or comes from a cross between the species *Vitis vinifera* and other species of the genus *Vitis*;

(b) the variety is not one of the following: Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont.

Where a wine grape variety is deleted from the classification referred to in the first subparagraph, grubbing up of this variety shall take place within 15 years of its deletion.

3. Member States whose wine production does not exceed 50 000 hectolitres per wine year, calculated on the basis of the average production during the last five wine years, shall be exempt from the classification obligation provided for in the first subparagraph of paragraph 2.

However, also in those Member States, only wine grape varieties complying with the second subparagraph of paragraph 2 may be planted, replanted or grafted for the purpose of wine production.

4. By way of derogation from the first and third subparagraphs of paragraph 2 and the second subparagraph of paragraph 3, the planting, replanting or grafting of the following wine grape varieties shall be allowed by the Member States for scientific research and experimental purposes:

(a) wine grape varieties which are not classified, in the case of the Member States other than those referred to in paragraph 3;

(b) wine grape varieties which do not comply with the second subparagraph of paragraph 2, in the case of the Member States referred to in paragraph 3.

5. Areas planted with wine grape varieties for the purpose of wine production planted in breach of paragraphs 2, 3 and 4 shall be grubbed up.

However, there shall be no obligation to grub up such areas where the relevant production is intended exclusively for consumption by the wine-producer's household.

Article 82

Specific use of wine not conforming to the categories listed in Part II of Annex VII

Except for bottled wine in respect of which there is evidence that bottling was performed before 1 September 1971, wine produced from wine grape varieties listed in the classifications drawn up in accordance with the first subparagraph of Article 81(2) but not conforming to one of the categories laid down in Part II of Annex VII shall be used only for consumption by individual wine-producers' households, for the production of wine vinegar or for distillation.

Article 83

National rules for certain products and sectors

1. Notwithstanding Article 75(2), Member States may adopt or maintain national rules laying down different quality levels for spreadable fats. Such rules shall allow those quality levels to be assessed on the basis of criteria relating, in particular, to the raw materials used, the organoleptic characteristics of the products and their physical and microbiological stability.

Member States making use of the option provided for in the first subparagraph shall ensure that other Member States' products complying with the criteria laid down by those national rules may, in a non-discriminatory way, use terms which state that those criteria have been complied with.

2. Member States may limit or prohibit the use of certain oenological practices and provide for more stringent rules for wines authorised under Union law produced in their territory with a view to reinforcing the preservation of the essential characteristics of wines with a protected designation of origin or a protected geographical indication and of sparkling wines and liqueur wines.

3. Member States may allow the experimental use of unauthorised oenological practices.

4. In order to ensure the correct and transparent application of this Article, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 setting out the conditions for the application of paragraphs 1, 2 and 3 of this Article, as well as the conditions for the holding, circulation and use of the products obtained from the experimental practices referred to in paragraph 3 of this Article.

5. Member States may only adopt or maintain additional national provisions on products covered by a Union marketing standard if those provisions comply with Union law, in particular the principle of free movement of goods, and subject to Directive 98/34/EC of the European Parliament and of the Council ⁽¹⁾.

Subsection 3

Optional reserved terms

Article 84

General provision

A scheme for optional reserved terms by sector or by product shall be established in order to make it easier for producers of agricultural products that have value-adding characteristics or attributes to communicate those characteristics or attributes within the internal market, and in particular to support and complement the specific marketing standards.

This Subsection shall not apply to wine products referred to in Article 92(1).

Article 85

Existing optional reserved terms

1. The optional reserved terms covered by this scheme on 20 December 2013 are listed in Annex IX and the conditions of their use shall be laid down pursuant to point (a) of Article 86.

2. The optional reserved terms referred to in paragraph 1 of this Article shall remain in force, subject to any amendment, unless cancelled pursuant to Article 86.

Article 86

Reservation, amendment and cancellation of optional reserved terms

In order to take account of the expectations of consumers, developments in scientific and technical knowledge, the situation in the market and developments in marketing standards and in international standards, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- (a) reserving an additional optional reserved term, laying down its conditions of use;
- (b) amending the conditions of use of an optional reserved term; or
- (c) cancelling an optional reserved term.

⁽¹⁾ Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ L 204, 21.7.1998, p. 37).

Article 87

Additional optional reserved terms

1. A term shall be eligible to be reserved as an additional optional reserved term only if it fulfils all of the following requirements:

- (a) the term relates to a characteristic of a product or to a farming or processing attribute and relates to a sector or product;
- (b) the use of the term enables clearer communication of the added value of the product by its specific characteristics or farming or processing attributes;
- (c) when the product is placed on the market, the characteristic or attribute referred to in point (a) is identifiable by consumers in several Member States;
- (d) the conditions and use of the term are in conformity with Directive 2000/13/EC of the European Parliament and of the Council ⁽²⁾ or Regulation (EU) No 1169/2011.

When introducing an additional optional reserved term, the Commission shall take account of any relevant international standard and of the existing reserved terms for the products or sectors involved.

2. In order to take the characteristics of certain sectors as well as consumer expectations into account, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down further details on the requirements for the introduction of an additional reserved term, as referred to in paragraph 1 of this Article.

Article 88

Restrictions on use of optional reserved terms

1. An optional reserved term may only be used to describe products that conform to the applicable conditions of use.
2. Member States shall adopt appropriate measures to ensure that product labelling does not give rise to confusion with optional reserved terms.
3. In order to ensure that products described by means of optional reserved terms conform to the applicable conditions of use, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down additional rules on the use of optional reserved terms.

⁽²⁾ Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ L 109, 6.5.2000, p. 29).

Subsection 4

Marketing standards related to import and export

Article 89

General provisions

In order to take into account the specific characteristics of trade between the Union and certain third countries and the special character of certain agricultural products, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) the conditions under which imported products are considered to have an equivalent level of conformity to the Union marketing standards and conditions allowing derogation from Article 74; and
- (b) the rules concerning the application of the marketing standards to products exported from the Union.

Article 90

Special provisions for the imports of wine

1. Save as otherwise provided for in international agreements concluded in accordance with the TFEU, the provisions concerning designation of origin and geographical indications and labelling of wine set out in Section 2 of this Chapter, and the definitions, designations and sales descriptions referred to in Article 78 of this Regulation shall apply to products imported into the Union and falling within CN codes 2009 61, 2009 69 and 2204.

2. Save as otherwise provided for in international agreements concluded in accordance with the TFEU, products referred to in paragraph 1 of this Article shall be produced in accordance with oenological practices authorised by the Union pursuant to this Regulation or, prior to the authorisation pursuant to Article 80(3), produced in accordance with oenological practices recommended and published by the OIV.

3. The import of the products referred to in paragraph 1 shall be subject to the presentation of:

- (a) a certificate evincing compliance with the provisions referred to in paragraphs 1 and 2, drawn up by a competent body, included on a list to be made public by the Commission, in the product's country of origin;
- (b) an analysis report drawn up by a body or department designated by the product's country of origin, if the product is intended for direct human consumption.

Subsection 5

Common provisions

Article 91

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts:

- (a) establishing the list of milk and milk products referred to in the second paragraph of point 5 of Part III of Annex VII and spreadable fats referred to in point (a) of the sixth paragraph of Section I of Part VII of Annex VII, on the basis of indicative lists of products which Member States regard as corresponding, in their territory, to those provisions and which Member States shall send to the Commission;
- (b) laying down rules for the implementation of the marketing standards by sector or product;
- (c) laying down rules for determining whether products have undergone processes contrary to the authorised oenological practices;
- (d) laying down rules for the methods of analysis for determining the characteristics of products;
- (e) laying down rules for fixing the tolerance level;
- (f) laying down rules for the implementation of the measures referred to in Article 89;
- (g) laying down rules for the identification or registration of the producer and/or the industrial facilities in which the product has been prepared or processed, for the certification procedures and for the commercial documents, accompanying documents and records to be kept.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Designations of origin, geographical indications and traditional terms in the wine sector

Subsection 1

Introductory provisions

Article 92

Scope

1. Rules on designations of origin, geographical indications and traditional terms laid down in this Section shall apply to the products referred to in points 1, 3 to 6, 8, 9, 11, 15 and 16 of Part II of Annex VIII.
2. The rules referred to in paragraph 1 shall be based on:
 - (a) protecting the legitimate interests of consumers and producers;
 - (b) ensuring the smooth operation of the internal market in the products concerned; and

(c) promoting the production of quality products referred to in this Section, whilst allowing national quality policy measures.

Subsection 2

Designations of origin and geographical indications

Article 93

Definitions

1. For the purposes of this Section, the following definitions shall apply:

(a) "a designation of origin" means the name of a region, a specific place or, in exceptional and duly justifiable cases, a country used to describe a product referred to in Article 92(1) fulfilling the following requirements:

(i) the quality and characteristics of the product are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;

(ii) the grapes from which the product is produced come exclusively from that geographical area;

(iii) the production takes place in that geographical area; and

(iv) the product is obtained from vine varieties belonging to *Vitis vinifera*;

(b) "a geographical indication" means an indication referring to a region, a specific place or, in exceptional and duly justifiable cases, a country, used to describe a product referred to in Article 92(1) fulfilling the following requirements:

(i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin;

(ii) at least 85 % of the grapes used for its production come exclusively from that geographical area;

(iii) its production takes place in that geographical area; and

(iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*.

2. Certain traditionally used names shall constitute a designation of origin where they:

(a) designate a wine;

(b) refer to a geographical name;

(c) fulfil the requirements referred to in points (a)(i) to (iv) of paragraph 1; and

(d) have undergone the procedure conferring protection on designations of origin and geographical indications laid down in this Subsection.

3. Designations of origin and geographical indications, including those relating to geographical areas in third countries, shall be eligible for protection in the Union in accordance with the rules laid down in this Subsection.

4. Production as referred to in point (a)(iii) of paragraph 1 shall cover all the operations involved, from the harvesting of the grapes to the completion of the wine-making processes, with the exception of any post-production processes.

5. For the purpose of the application of point (b)(ii) of paragraph 1, the maximum 15 % share of grapes which may originate outside the demarcated area shall originate from the Member State or third country in which the demarcated area is situated.

Article 94

Applications for protection

1. Applications for protection of names as designations of origin or geographical indications shall include a technical file containing:

(a) the name to be protected;

(b) the name and address of the applicant;

(c) a product specification, as referred to in paragraph 2; and

(d) a single document summarising the product specification referred to in paragraph 2.

2. The product specification shall enable interested parties to verify the relevant conditions of production relating to the designation of origin or geographical indication.

The product specification shall at least consist of:

(a) the name to be protected;

(b) a description of the wine or wines:

(i) in respect of a designation of origin, the principal analytical and organoleptic characteristics;

(ii) in respect of a geographical indication, the principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics;

(c) where applicable, the specific oenological practices used to make the wine or wines, as well as the relevant restrictions on making them;

- (d) the demarcation of the geographical area concerned;
- (e) the maximum yields per hectare;
- (f) an indication of the wine grape variety or varieties that the wine or wines are obtained from;
- (g) the details bearing out the link referred to in point (a)(i) or, as the case may be, in point (b)(i) of Article 93(1);
- (h) applicable requirements laid down in Union or national legislation or, where provided for by Member States, by an organisation which manages the protected designation of origin or the protected geographical indication, having regard to the fact that such requirements must be objective, non-discriminatory and compatible with Union law;
- (i) the name and address of the authorities or bodies verifying compliance with the provisions of the product specification, and their specific tasks.

3. Where the application for protection concerns a geographical area in a third country, it shall contain, in addition to the elements provided for in paragraphs 1 and 2, proof that the name concerned is protected in its country of origin.

Article 95

Applicants

1. Any interested group of producers, or in exceptional and duly justifiable cases a single producer, may apply for the protection of a designation of origin or geographical indication. Other interested parties may participate in the application.
2. Producers may apply for protection only for wines which they produce.
3. In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, a joint application may be submitted.

Article 96

Preliminary national procedure

1. Applications for protection of a designation of origin or a geographical indication for wines originating in the Union shall be subject to a preliminary national procedure.
2. The application for protection shall be filed with the Member State in the territory of which the designation of origin or geographical indication originates.
3. The Member State with which the application for protection is filed shall examine it in order to verify whether it meets the conditions set out in this Subsection.

That Member State shall carry out a national procedure ensuring adequate publication of the application and providing for a period of at least two months from the date of publication within which any natural or legal person having a legitimate interest and resident or established on its territory may object to the proposed protection by lodging a duly substantiated statement with that Member State.

4. If the Member State assessing the application considers that the designation of origin or the geographical indication does not comply with the conditions laid down in this Subsection or is incompatible with Union law, it shall reject the application.

5. If the Member State assessing the application considers that the requirements are fulfilled, it shall carry out a national procedure which ensures adequate publication of the product specification at least on the Internet and forward the application to the Commission.

Article 97

Scrutiny by the Commission

1. The Commission shall make public the date of submission of the application for protection of the designation of origin or geographical indication.
2. The Commission shall examine whether the applications for protection as referred to in Article 94 meet the conditions laid down in this Subsection.
3. Where the Commission considers that the conditions laid down in this Subsection are met, it shall adopt implementing acts concerning the publication, in the *Official Journal of the European Union*, of the single document referred to in point (d) of Article 94(1) and of the reference to the publication of the product specification made in the course of the preliminary national procedure. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).
4. Where the Commission considers that the conditions laid down in this Subsection are not met, it shall adopt implementing acts rejecting the application.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 98

Objection procedure

Within two months from the date of the publication of the single document as referred to in point (d) of Article 94(1), any Member State or third country, or any natural or legal person having a legitimate interest and resident or established in a Member State other than that applying for the protection or in a third country, may object to the proposed protection by submitting to the Commission a duly substantiated statement concerning the conditions of eligibility as laid down in this Subsection.

In the case of natural or legal persons resident or established in third countries, such a statement shall be submitted, either directly or via the authorities of the third country concerned, within the two month period referred to in the first paragraph.

Article 99

Decision on protection

On the basis of the information available to the Commission upon the completion of the objection procedure referred to in Article 98, the Commission shall adopt implementing acts either conferring protection on the designation of origin or geographical indication which meets the conditions laid down in this Subsection and is compatible with Union law, or rejecting the application where those conditions are not met.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 100

Homonyms

1. A name for which an application is submitted and which is wholly or partially homonymous with a name already registered under this Regulation shall be registered with due regard to local and traditional usage and any risk of confusion.

A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of those products is concerned.

A registered homonymous name may be used only if there is a sufficient distinction in practice between the homonym registered subsequently and the name already in the register, having regard to the need to treat the producers concerned in an equitable manner and the need to avoid misleading the consumer.

2. Paragraph 1 shall apply *mutatis mutandis* if a name for which an application is submitted is wholly or partially homonymous with a geographical indication protected under the national law of Member States.

3. Where the name of a wine grape variety contains or consists of a protected designation of origin or a protected geographical indication, that name shall not be used for the purposes of labelling agricultural products.

In order to take into account existing labelling practices, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down exceptions from that rule.

4. The protection of designations of origin and geographical indications of products covered by Article 93 of this Regulation

shall be without prejudice to protected geographical indications applying to spirit drinks as defined in Article 2 of Regulation (EC) No 110/2008 of the European Parliament and of the Council ⁽¹⁾.

Article 101

Additional grounds for refusal of protection

1. A name that has become generic shall not be protected as a designation of origin or a geographical indication.

For the purposes of this Section, a "name that has become generic" means the name of a wine which, although it relates to the place or the region where this product was originally produced or marketed, has become the common name of a wine in the Union.

To establish whether or not a name has become generic, the relevant factors shall be taken into account, in particular:

(a) the existing situation in the Union, notably in areas of consumption;

(b) the relevant Union or national law.

2. A name shall not be protected as a designation of origin or geographical indication where, in the light of a trade mark's reputation and renown, protection could mislead the consumer as to the true identity of the wine.

Article 102

Relationship with trade marks

1. The registration of a trade mark that contains or consists of a protected designation of origin or a geographical indication which does not comply with the product specification concerned or the use of which falls under Article 103(2), and that relates to a product falling under one of the categories listed in Part II of Annex VII shall be:

(a) refused if the application for registration of the trade mark is submitted after the date of submission of the application for protection of the designation of origin or geographical indication to the Commission and the designation of origin or geographical indication is subsequently protected; or

(b) invalidated.

2. Without prejudice to Article 101(2), a trade mark referred to in paragraph 1 of this Article which has been applied for, registered or established by use in good faith, if that possibility is provided for by the law concerned, in the territory of the Union either before the date of protection of the designation of origin or geographical indication in the country of origin, or before 1 January 1996, may continue to be used and renewed

⁽¹⁾ Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (OJ L 39, 13.2.2008, p. 16).

notwithstanding the protection of a designation of origin or geographical indication, provided that no grounds for the trade mark's invalidity or revocation exist under Directive 2008/95/EC of the European Parliament and of the Council ⁽¹⁾ or under Council Regulation (EC) No 207/2009 ⁽²⁾.

In such cases, the use of the designation of origin or geographical indication shall be permitted alongside the relevant trade marks.

Article 103

Protection

1. A protected designation of origin and a protected geographical indication may be used by any operator marketing a wine which has been produced in conformity with the corresponding product specification.

2. A protected designation of origin and a protected geographical indication, as well as the wine using that protected name in conformity with the product specifications, shall be protected against:

- (a) any direct or indirect commercial use of that protected name:
 - (i) by comparable products not complying with the product specification of the protected name; or
 - (ii) in so far as such use exploits the reputation of a designation of origin or a geographical indication;
- (b) any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated, transcribed or transliterated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;
- (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, as well as the packing of the product in a container liable to convey a false impression as to its origin;
- (d) any other practice liable to mislead the consumer as to the true origin of the product.

⁽¹⁾ Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ L 299, 8.11.2008, p. 25).

⁽²⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ L 78, 24.3.2009, p. 1).

3. Protected designations of origin and protected geographical indications shall not become generic in the Union within the meaning of Article 101(1).

Article 104

Register

The Commission shall establish and maintain an electronic register of protected designations of origin and protected geographical indications for wine which shall be publicly accessible. Designations of origin and geographical indications pertaining to products of third countries that are protected in the Union pursuant to an international agreement to which the Union is a contracting party may be entered in the register. Unless specifically identified in that agreement as protected designations of origin within the meaning of this Regulation, such names shall be entered in the register as protected geographical indications.

Article 105

Amendments to product specifications

An applicant satisfying the conditions laid down in Article 95 may apply for approval of an amendment to the product specification of a protected designation of origin or of a protected geographical indication, in particular to take account of developments in scientific and technical knowledge or to re-demarcate the geographical area referred to in point (d) of the second subparagraph of Article 94(2). Applications shall describe and state reasons for the amendments requested.

Article 106

Cancellation

The Commission may, on its own initiative or on a duly substantiated request by a Member State, a third country or a natural or legal person having a legitimate interest, adopt implementing acts cancelling the protection of a designation of origin or a geographical indication if compliance with the corresponding product specification is no longer ensured.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 107

Existing protected wine names

1. Wine names referred to in Articles 51 and 54 of Council Regulation (EC) No 1493/1999 ⁽³⁾ and Article 28 of Commission Regulation (EC) No 753/2002 ⁽⁴⁾ shall be automatically protected under this Regulation. The Commission shall list them in the register provided for in Article 104 of this Regulation.

⁽³⁾ Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1).

⁽⁴⁾ Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ L 118, 4.5.2002, p. 1).

2. The Commission shall take the corresponding formal step of removing wine names to which Article 118s(3) of Regulation (EC) No 1234/2007 applies from the register provided for in Article 104 of this Regulation by means of implementing acts adopted without applying the procedure referred to in Article 229(2) or (3) of this Regulation.

3. Article 106 shall not apply to existing protected wine names referred to in paragraph 1 of this Article.

Until 31 December 2014, the Commission may, on its own initiative, adopt implementing acts cancelling the protection of existing protected wine names referred to in paragraph 1 of this Article if they do not meet the conditions laid down in Article 93.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

4. For Croatia, the wine names published in the *Official Journal of the European Union* ⁽¹⁾ shall be protected under this Regulation, subject to a favourable outcome of the objection procedure. The Commission shall list them in the register provided for in Article 104.

Article 108

Fees

Member States may charge fees to cover their costs, including those incurred in examining the applications for protection, statements of objections, applications for amendments and requests for cancellations under this Subsection.

Article 109

Delegated powers

1. In order to take into account the specific characteristics of the production in the demarcated geographical area, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- (a) the additional criteria for the demarcation of the geographical area; and
- (b) the restrictions and derogations concerning the production in the demarcated geographical area.

2. In order to ensure product quality and traceability, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which product specifications may include additional requirements.

3. In order to ensure the protection of the legitimate rights and interests of producers and operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on:

- (a) the type of applicant that may apply for the protection of a designation of origin or geographical indication;

- (b) the conditions to be followed in respect of an application for the protection of a designation of origin or geographical indication, scrutiny by the Commission, the objection procedure, and procedures for amendment, cancellation and conversion of protected designations of origin or protected geographical indications;

- (c) the conditions applicable to trans-border applications;

- (d) the conditions for applications concerning geographical areas in a third country;

- (e) the date from which a protection or an amendment to a protection shall apply;

- (f) the conditions related to amendments to product specifications.

4. In order to ensure an adequate level of protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on restrictions regarding the protected name.

5. In order to ensure that economic operators and competent authorities are not unduly affected by the application of this Subsection as regards wine names which have been granted protection prior to 1 August 2009, or for which an application for protection has been made prior to that date, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down transitional rules concerning:

- (a) wine names recognised by Member States as designations of origin or geographical indications by 1 August 2009, and wine names for which an application for protection has been made prior to that date;
- (b) wines placed on the market or labelled before a specific date; and
- (c) amendments to the product specifications.

Article 110

Implementing powers in accordance with the examination procedure

1. The Commission may adopt implementing acts laying down necessary measures concerning:

- (a) the information to be provided in the product specification with regard to the link between the geographical area and the final product;
- (b) the making of decisions on protection or rejection available to the public;
- (c) the establishment and the maintenance of the register referred to in Article 104;

⁽¹⁾ OJ C 116, 14.4.2011, p. 12.

(d) the conversion from protected designation of origin to protected geographical indication;

(e) the submission of trans-border applications.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. The Commission may adopt implementing acts laying down necessary measures concerning the procedure for the examination of applications for protection or for the approval of an amendment of a designation of origin or a geographical indication, as well as the procedure for requests for objection, cancellation, or conversion, and the submission of information related to existing protected wine names, in particular with respect to:

- (a) models for documents and the transmission format;
- (b) time limits;
- (c) the details of the facts, evidence and supporting documents to be submitted in support of an application or a request.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 111

Other implementing powers

Where an objection is deemed inadmissible, the Commission shall adopt an implementing act rejecting it as inadmissible. That implementing act shall be adopted without applying the procedure referred to in Article 229(2) or (3).

Subsection 3

Traditional terms

Article 112

Definition

A "traditional term" means a term traditionally used in Member States for the products referred to in Article 92(1) to designate:

- (a) that the product has a protected designation of origin or a protected geographical indication under Union or national law; or
- (b) the production or ageing method or the quality, colour, type of place, or a particular event linked to the history of the product with a protected designation of origin or a protected geographical indication.

Article 113

Protection

1. A protected traditional term may only be used for a product which has been produced in conformity with the definition provided for in Article 112.

Traditional terms shall be protected against unlawful use.

2. Traditional terms shall be protected, only in the language and for the categories of grape vine products claimed in the application, against:

- (a) any misuse of the protected term, including where it is accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;
- (b) any other false or misleading indication as to the nature, characteristics or essential qualities of the product, placed on the inner or outer packaging, advertising material or documents relating to it;
- (c) any other practice likely to mislead the consumer, in particular to give the impression that the wine qualifies for the protected traditional term.

3. Traditional terms shall not become generic in the Union.

Article 114

Delegated powers

1. In order to ensure an adequate level of protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 regarding the language and the spelling of the traditional term to be protected.

2. In order to ensure the protection of the legitimate rights and interests of producers and operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing:

- (a) the type of applicants that may apply for the protection of a traditional term;
- (b) the conditions of validity of an application for protection of a traditional term;
- (c) the grounds for objecting to a proposed recognition of a traditional term;
- (d) the scope of the protection, the relationship with trade marks, protected traditional terms, protected designations of origin or geographical indications, homonyms, or certain wine grape names;
- (e) the grounds for cancellation of a traditional term;
- (f) the date of submission of an application or of a request for objection or cancellation;

(g) the procedures to be followed in respect of an application for the protection of a traditional term, including scrutiny by the Commission, the objection procedure and the procedures on cancellation and modification.

3. In order to take into account the specific characteristics of trade between the Union and certain third countries, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which traditional terms may be used on products from third countries and providing for derogations from Article 112 and Article 113(2).

Article 115

Implementing powers in accordance with the examination procedure

1. The Commission may adopt implementing acts laying down necessary measures concerning the procedure for the examination of applications for protection or for the approval of a modification of a traditional term, as well as the procedure for requests for objection or cancellation, in particular with respect to:

- (a) models for documents and the transmission format;
- (b) time limits;
- (c) the details of the facts, evidence and supporting documents to be submitted in support of the application or request;
- (d) detailed rules on making protected traditional terms available to the public.

2. The Commission shall adopt implementing acts accepting or rejecting an application for protection of a traditional term or a request for a modification of the protected term or the cancellation of the protection of a traditional term.

3. The Commission shall adopt implementing acts providing for the protection of traditional terms in respect of which an application for protection has been accepted, in particular by classifying them in accordance with Article 112 and by publishing a definition and/or the conditions of use.

4. The implementing acts referred to in paragraphs 1, 2 and 3 of this Article shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 116

Other implementing powers

Where an objection is deemed inadmissible, the Commission shall adopt an implementing act rejecting it as inadmissible. That implementing act shall be adopted without applying the procedure referred to in Article 229(2) or (3).

Section 3

Labelling and presentation in the wine sector

Article 117

Definition

For the purposes of this Section:

- (a) "labelling" means any words, particulars, trade marks, brand name, pictorial matter or symbol placed on any packaging, document, notice, label, ring or collar accompanying or referring to a given product;
- (b) "presentation" means any information conveyed to consumers by virtue of the packaging of the product concerned, including the form and type of bottles.

Article 118

Applicability of horizontal rules

Save as otherwise provided for in this Regulation, Council Directive 89/396/EEC⁽¹⁾, Directive 2000/13/EC, Directive 2007/45/EC of the European Parliament and of the Council⁽²⁾, Directive 2008/95/EC and Regulation (EU) No 1169/2011 shall apply to the labelling and presentation.

The labelling of the products referred to in points 1 to 11, 13, 15 and 16 of Part II of Annex VII may not be supplemented by any particulars other than those provided for in this Regulation unless those particulars satisfy the requirements of Directive 2000/13/EC or Regulation (EU) No 1169/2011.

Article 119

Compulsory particulars

1. Labelling and presentation of the products referred to in points 1 to 11, 13, 15 and 16 of Part II of Annex VII marketed in the Union or for export shall contain the following compulsory particulars:

- (a) the designation for the category of the grapevine product in accordance with Part II of Annex VII;
- (b) for wines with a protected designation of origin or a protected geographical indication:
 - (i) the term "protected designation of origin" or "protected geographical indication"; and
 - (ii) the name of the protected designation of origin or the protected geographical indication;

⁽¹⁾ Council Directive 89/396/EEC of 14 June 1989 on indications or marks identifying the lot to which a foodstuff belongs (OJ L 186, 30.6.1989, p. 21).

⁽²⁾ Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC (OJ L 247, 21.9.2007, p. 17).

- (c) the actual alcoholic strength by volume;
- (d) an indication of provenance;
- (e) an indication of the bottler or, in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, the name of the producer or vendor;
- (f) an indication of the importer in the case of imported wines; and
- (g) in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, an indication of the sugar content.

2. By way of derogation from point (a) of paragraph 1, the reference to the category of the grapevine product may be omitted for wines whose labels include the name of a protected designation of origin or a protected geographical indication.

3. By way of derogation from point (b) of paragraph 1, the reference to the terms "protected designation of origin" or "protected geographical indication" may be omitted in the following cases:

- (a) where a traditional term in accordance with point (a) of Article 112 is displayed on the label in accordance with the product specification referred to in Article 94(2);
- (b) in exceptional and duly justified circumstances to be determined by the Commission by means of delegated acts adopted in accordance with Article 227 in order to ensure compliance with existing labelling practices.

Article 120

Optional particulars

1. Labelling and presentation of the products referred to in points 1 to 11, 13, 15 and 16 of Part II of Annex VII may, in particular, contain the following optional particulars:

- (a) the vintage year;
- (b) the name of one or more wine grape varieties;
- (c) in the case of wines other than those referred to in point (g) of Article 119(1), terms indicating the sugar content;
- (d) for wines with a protected designation of origin or a protected geographical indication, traditional terms in accordance with point (b) of Article 112;
- (e) the Union symbol indicating the protected designation of origin or the protected geographical indication;

- (f) terms referring to certain production methods;

- (g) for wines bearing a protected designation of origin or a protected geographical indication, the name of another geographical unit that is smaller or larger than the area underlying the designation of origin or geographical indication.

2. Without prejudice to Article 100(3), as regards the use of particulars referred to in points (a) and (b) of paragraph 1 of this Article for wines without a protected designation of origin or a protected geographical indication:

- (a) Member States shall introduce laws, regulations or administrative provisions to ensure certification, approval and verification procedures so as to guarantee the veracity of the information concerned;
- (b) Member States may, on the basis of non-discriminatory and objective criteria and with due regard to fair competition, for wine produced from wine grape varieties on their territory, draw up lists of excluded wine grape varieties, in particular if:
 - (i) there is a risk of confusion for consumers as to the true origin of the wine due to the fact that the wine grape variety forms an integral part of an existing protected designation of origin or a protected geographical indication;
 - (ii) checks would not be cost-effective due to the fact that the given wine grape variety represents a very small part of the Member State vineyard;
- (c) mixtures of wines from different Member States shall not give rise to labelling of the wine grape variety unless the Member States concerned agree otherwise and ensure the feasibility of the relevant certification, approval and verification procedures.

Article 121

Languages

1. The compulsory and optional particulars referred to in Articles 119 and 120 shall, where expressed in words, appear in one or more official language of the Union.

2. Notwithstanding paragraph 1, the name of a protected designation of origin or a protected geographical indication or a traditional term as referred to in point (b) of Article 112 shall appear on the label in the language or languages for which the protection applies. In the case of a protected designation of origin or a protected geographical indication or a national specific designation using a non-Latin alphabet, the name may also appear in one or more official languages of the Union.

*Article 122***Delegated powers**

1. In order to take into account the specific characteristics of the wine sector, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules and restrictions on:

- (a) the presentation and use of labelling particulars other than those provided for in this Section;
- (b) compulsory particulars concerning:
 - (i) terms to be used to formulate the compulsory particulars and their conditions of use;
 - (ii) terms referring to a holding and the conditions for their use;
 - (iii) provisions allowing the producing Member States to establish additional rules relating to compulsory particulars;
 - (iv) provisions allowing further derogations in addition to those referred to in Article 119(2) as regards the omission of the reference to the category of the grapevine product; and
 - (v) provisions on the use of languages;
- (c) optional particulars concerning:
 - (i) terms to be used to formulate the optional particulars and their conditions of use;
 - (ii) provisions allowing the producing Member States to establish additional rules relating to optional particulars;
- (d) the presentation concerning:
 - (i) the conditions of use of certain bottle shapes, and a list of certain specific bottle shapes;
 - (ii) the conditions of use of "sparkling wine"-type bottles and closures;
 - (iii) provisions allowing the producing Member States to establish additional rules relating to presentation;
 - (iv) provisions on the use of languages.

2. In order to ensure the protection of the legitimate interests of operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules as regards temporary labelling and presentation of wines

bearing a designation of origin or a geographical indication, where that designation of origin or geographical indication fulfils the necessary requirements.

3. In order to ensure that economic operators are not prejudiced, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning transitional provisions as regards wine placed on the market and labelled in accordance with the relevant rules applying before 1 August 2009.

4. In order to take account of the specific characteristics in trade between the Union and certain third countries, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning derogations from this Section as regards products to be exported where required by the law of the third country concerned.

*Article 123***Implementing powers in accordance with the examination procedure**

The Commission may adopt implementing acts laying down necessary measures concerning the procedures and technical criteria applicable to this Section, including the necessary measures for the certification, approval and verification procedures applicable to wines without a protected designation of origin or a protected geographical indication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER II

Specific provisions for individual sectors

Section 1

Sugar*Article 124***Duration**

With the exceptions of Articles 125 and 126, this Section shall apply until the end of the 2016/2017 marketing year.

Subsection 1

Specific measures*Article 125***Sugar sector agreements**

1. The terms for buying sugar beet and sugar cane, including pre-sowing delivery contracts, shall be governed by written agreements within the trade concluded between, on the one hand, Union growers of sugar beet and sugar cane or, on their behalf, the organisations of which they are members, and, on the other hand, Union sugar undertakings or, on their behalf, the organisations of which they are members.

2. Agreements within the trade as described in point 6 of Section A of Part II of Annex II shall be notified by sugar undertakings to the competent authorities of the Member State in which they produce sugar.

3. From 1 October 2017, agreements within the trade shall conform to the purchase terms laid down in Annex X.

4. In order to take into account the specific characteristics of the sugar sector and the development of the sector in the period following the ending of production quotas, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to:

(a) update the terms referred to in Section A of Part II of Annex II;

(b) update the purchase terms for beet referred to in Annex X;

(c) lay down further rules on the determination of gross weight, tare and sugar content of sugar beet delivered to an undertaking, and on beet pulp.

5. The Commission may adopt implementing acts laying down the measures necessary for the application of this Article, including in respect of procedures, notifications and administrative assistance in the case of agreements within the trade covering more than one Member State. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 126

Price reporting in the sugar market

The Commission may adopt implementing acts establishing a system for reporting sugar market prices, including arrangements for publishing the price levels for this market. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

The system referred to in the first subparagraph shall be based on information submitted by undertakings producing white sugar or by other operators involved in the sugar trade. This information shall be treated as confidential.

The Commission shall ensure that specific prices or names of individual economic operators are not published.

Subsection 2

Requirements applying to the sugar sector during the period referred to in article 124

Article 127

Delivery contracts

1. In addition to the requirements set out in Article 125(1), agreements within the trade shall conform to the purchase terms laid down in Annex XI.

2. In delivery contracts, a distinction shall be made depending on whether the quantities of sugar to be manufactured from sugar beet are:

(a) quota sugar; or

(b) out-of-quota sugar.

3. Each sugar undertaking shall provide the Member State in which it produces sugar with the following information:

(a) the quantities of beet referred to in point (a) of paragraph 2 for which they have concluded pre-sowing delivery contracts and the sugar content on which those contracts are based;

(b) the corresponding estimated yield.

Member States may require additional information.

4. Sugar undertakings which have not signed pre-sowing delivery contracts at the minimum price for quota beet, as referred to in Article 135, for a quantity of beet equivalent to the sugar for which they hold a quota, adjusted, as the case may be, by the coefficient for a preventive withdrawal fixed pursuant to the first subparagraph of Article 130(2), shall be required to pay at least the minimum price for quota beet for all the sugar beet they process into sugar.

5. Subject to the approval of the Member State concerned, agreements within the trade may derogate from paragraphs 2, 3 and 4.

6. If no agreements within the trade exist, the Member State concerned shall take the necessary steps compatible with this Regulation to protect the interests of the parties concerned.

Article 128

Production charge

1. A production charge shall be levied on the sugar quota, the isoglucose quota and the inulin syrup quota held by undertakings producing sugar, isoglucose or inulin syrup as referred to in Article 136(2).

2. Measures on the fixing of the production charge for quota sugar, quota isoglucose and quota inulin syrup referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 129

Production refund

1. A production refund may be granted on the products of the sugar sector listed in points (b) to (e) of Part III of Annex I if surplus sugar or imported sugar, surplus isoglucose or surplus inulin syrup is not available at a price corresponding to the world price for the manufacturing of the products referred to in points (b) and (c) of the second subparagraph of Article 140(2).

2. Measures on the fixing of the production refund referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 130

Withdrawal of sugar

1. To avoid price collapses in the internal market and to remedy situations of overproduction based on the forecast supply balance, and taking into account the commitments of the Union resulting from international agreements concluded in accordance with the TFEU, the Commission may adopt implementing acts withdrawing from the market, for a given marketing year, those quantities of sugar or isoglucose produced under quotas which exceed the threshold calculated in accordance with paragraph 2.

2. The withdrawal threshold referred to in paragraph 1 shall be calculated, for each undertaking holding a quota, by multiplying its quota by a coefficient. The Commission may adopt implementing acts fixing that coefficient for a marketing year no later than 28 February of the previous marketing year, on the basis of expected market trends.

On the basis of updated market trends, the Commission may, by 31 October of the marketing year concerned, adopt implementing acts either adjusting or, where no coefficient has been fixed pursuant to the first subparagraph, fixing a coefficient.

3. Each undertaking holding a quota shall store, at its own expense, until the beginning of the following marketing year, the sugar produced under quota in excess of the threshold calculated in accordance with paragraph 2. The sugar, isoglucose or inulin syrup quantities withdrawn during a marketing year shall be treated as the first quantities produced under quota for the following marketing year.

By way of derogation from the first subparagraph, taking into account the expected sugar market trends, the Commission may adopt implementing acts providing that, for the current, the following or both marketing years, all or part of the withdrawn sugar, isoglucose or inulin syrup is to be considered to be:

- (a) surplus sugar, isoglucose or inulin syrup available to become industrial sugar, industrial isoglucose or industrial inulin syrup; or
- (b) temporary quota production of which a part may be reserved for export respecting the commitments of the Union resulting from international agreements concluded in accordance with the TFEU.

4. If sugar supply in the Union is inadequate, the Commission may adopt implementing acts allowing a certain

quantity of withdrawn sugar, isoglucose or inulin syrup to be sold on the Union market before the end of the period of withdrawal.

5. Where withdrawn sugar is treated as the first sugar production of the following marketing year, the minimum price of that marketing year, as referred to in Article 135, shall be paid to beet growers.

Where withdrawn sugar becomes industrial sugar or is exported in accordance with points (a) or (b) of the second subparagraph of paragraph 3 of this Article, the requirements of Article 135 on the minimum price shall not apply.

Where withdrawn sugar is sold on the Union market before the end of the period of withdrawal in accordance with paragraph 4 of this Article, the minimum price of the ongoing marketing year shall be paid to beet growers.

6. Implementing acts pursuant to this Article shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 131

Temporary market management mechanism

1. For the duration of the period referred to in Article 124, the Commission may adopt implementing acts laying down the measures necessary in order to ensure a sufficient supply of sugar to the Union market. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Such measures may adjust, for the quantity and time necessary, the level of the duty payable on imported raw sugar.

Within the context of the temporary market management mechanism, measures on the fixing of a surplus levy are taken by the Council in accordance with Article 43(3) TFEU.

2. The Commission shall adopt implementing acts determining the appropriate quantity of out-of-quota sugar and imported raw sugar that can be released onto the Union market. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 132

Delegated powers

In order to take into account the specific characteristics of the sugar sector and to ensure that the interests of all parties are duly taken into account, and given the need to prevent any disturbance of the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning:

- (a) purchase terms and delivery contracts referred to Article 127;

- (b) updating the purchase terms for beet referred to in Annex XI;
- (c) the criteria to be applied by the sugar undertakings when allocating among beet sellers the quantities of beet to be covered by pre-sowing delivery contracts as referred to in Article 127(3).

Article 133

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down the measures necessary for the application of this Subsection concerning procedures, content and technical criteria.

Those implementing acts shall be adopted in accordance with examination procedure referred to in Article 229(2).

Subsection 3

System of production regulation

Article 134

Quotas in the sugar sector

1. A quota system shall apply to sugar, isoglucose and inulin syrup.
2. As regards the quota system referred to in paragraph 1 of this Article, if a producer exceeds the relevant quota and does not make use of the surplus quantities as provided for in Article 139, a surplus levy shall be payable on such quantities, subject to the conditions set out in Articles 139 to 142.

Article 135

Minimum beet price

The minimum price for quota beet shall be fixed by the Council in accordance with Article 43(3) TFEU.

Article 136

Quota allocation

1. The quotas for the production of sugar, isoglucose and inulin syrup at national or regional level are fixed in Annex XII.
2. The Member States shall allocate a quota to each undertaking producing sugar, isoglucose or inulin syrup established in its territory and approved under Article 137.

For each undertaking, the allocated quota shall be equal to the quota which was allocated to the undertaking for the marketing year 2010/2011 under Regulation (EC) No 1234/2007.

3. Where a quota is allocated to a sugar undertaking having more than one production unit, the Member States shall adopt the measures they consider necessary in order to take due account of the interests of sugar beet and cane growers.

Article 137

Approved undertakings

1. On request, Member States shall grant approval to an undertaking producing sugar, isoglucose or inulin syrup or to an undertaking that processes these products into a product included in the list referred to in Article 140(2) provided that the undertaking:

- (a) proves its professional production capacities;
- (b) agrees to provide any information and to be subject to controls related to this Regulation;
- (c) is not subject to suspension or withdrawal of the approval.

2. The approved undertakings shall provide the Member State in whose territory the harvest of beet, cane or the refining takes place with the following information:

- (a) the quantities of beet or cane for which a delivery contract has been concluded, as well as the corresponding estimated yields of beet or cane and sugar per hectare;
- (b) data on provisional and actual sugar beet, sugar cane and raw sugar deliveries, and on sugar production and statements of sugar stocks;
- (c) the quantities of white sugar sold and the corresponding prices and conditions.

Article 138

National quota reallocation and reduction of quotas

1. A Member State may reduce the sugar or isoglucose quota that has been allocated to an undertaking established on its territory by up to 10 %. In doing so, the Member States shall apply objective and non-discriminatory criteria.
2. Member States may transfer quotas between undertakings in accordance with the rules laid down in Annex XIII and taking into consideration the interests of each of the parties concerned, particularly sugar beet and cane growers.
3. The quantities reduced pursuant to paragraphs 1 and 2 shall be allocated by the Member State in question to one or more undertakings on its territory, whether or not holding a quota.

*Article 139***Out-of-quota production**

1. The sugar, isoglucose or inulin syrup produced during a marketing year in excess of the quota referred to in Article 136 may be:

- (a) used for the processing of certain products as referred to in Article 140;
- (b) carried forward to the quota production of the next marketing year in accordance with Article 141;
- (c) used for the specific supply regime for the outermost regions, in accordance with Chapter III of Regulation (EU) No 228/2013 of the European Parliament and of the Council ⁽¹⁾;
- (d) exported within a quantitative limit, to be fixed by the Commission by means of implementing acts, respecting the commitments resulting from international agreements concluded in accordance with the TFEU; or
- (e) released onto the internal market, in compliance with the mechanism described in Article 131, for the purpose of adjusting supply to demand on the basis of the forecast supply balance.

The measures referred to in point (e) of the first paragraph of this Article shall be implemented before any activation of the measures to prevent market disturbance referred to in Article 219(1).

Other quantities shall be subject to the surplus levy referred to in Article 142.

2. Implementing acts pursuant to this Article shall be adopted in accordance with the examination procedure referred to in Article 229(2).

*Article 140***Industrial sugar**

1. Industrial sugar, industrial isoglucose or industrial inulin syrup shall be reserved for the production of one of the products referred to in paragraph 2 when:

- (a) it has been subject to a delivery contract concluded before the end of the marketing year between a producer and a user which have both been granted approval in accordance with Article 137; and
- (b) it has been delivered to the user on 30 November of the following marketing year at the latest.

⁽¹⁾ Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 (OJ L 78, 20.3.2013, p. 23).

2. In order to take account of technical developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing a list of products for the production of which industrial sugar, industrial isoglucose or industrial inulin syrup may be used.

The list shall, in particular, include:

- (a) bioethanol, alcohol, rum, live yeast and quantities of syrups for spreading and those to be processed into "Rinse appelstroop";
- (b) certain industrial products without sugar content but which are processed using sugar, isoglucose or inulin syrup;
- (c) certain products of the chemical or pharmaceutical industry which contain sugar, isoglucose or inulin syrup.

*Article 141***Carry-forward of surplus sugar**

1. Each undertaking may decide to carry forward all or part of its production in excess of its sugar quota, its isoglucose quota or its inulin syrup quota to be treated as part of the next marketing year's production. Without prejudice to paragraph 3, that decision shall be irrevocable.

2. Undertakings which take the decision referred to in paragraph 1 shall:

- (a) inform the Member State concerned before a date to be determined by that Member State:
 - (i) between 1 February and 31 August of the current marketing year for quantities of cane sugar being carried forward;
 - (ii) between 1 February and 31 August of the current marketing year for other quantities of beet sugar, isoglucose or inulin syrup being carried forward;
- (b) undertake to store such quantities at their own expense until the end of the current marketing year.

3. If an undertaking's definitive production in the marketing year concerned was less than the estimate made when the decision in accordance with paragraph 1 was taken, the quantity carried forward may be adjusted retroactively by 31 October of the following marketing year at the latest.

4. The quantities carried forward shall be deemed to be the first quantities produced under the quota of the following marketing year.

5. Sugar stored in accordance with this Article during a marketing year may not be subject to any other storage measures provided for in Articles 16 or 130.

Article 142

Surplus levy

1. A surplus levy shall be levied on quantities of:
 - (a) surplus sugar, surplus isoglucose and surplus inulin syrup produced during any marketing year, except for quantities carried forward to the quota production of the following marketing year and stored in accordance with Article 141 or quantities referred to in points (c), (d) and (e) of the first subparagraph of Article 139(1);
 - (b) industrial sugar, industrial isoglucose or industrial inulin syrup in respect of which no proof of use in one of the products referred to in Article 140(2) has been supplied within a time limit, to be fixed by the Commission by means of implementing acts;
 - (c) sugar, isoglucose and inulin syrup withdrawn from the market in accordance with Article 130 and for which the obligations provided for in Article 130(3) are not met.

Implementing acts pursuant to point (b) of the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. Measures on the fixing of a surplus levy referred to in paragraph 1 shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 143

Delegated powers

1. In order to ensure that undertakings referred to in Article 137 comply with their obligations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down rules on the granting and the withdrawal of approval for such undertakings, as well as the criteria for administrative penalties.
2. In order to take into account the specific characteristics of the sugar sector and to ensure that the interests of all parties are duly taken into account, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on the meaning of terms for the operation of the quota system, as well as laying down the conditions governing sales to outermost regions.
3. In order to ensure that the growers are closely associated with a decision to carry forward a certain quantity of production, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down rules concerning carry-forward of sugar.

Article 144

Implementing powers in accordance with the examination procedure

With regard to the undertakings referred to in Article 137, the Commission may adopt implementing acts establishing rules concerning:

- (a) applications for approval made by undertakings, the records to be kept by approved undertakings, the information to be submitted by approved undertakings;
- (b) the system of checks to be carried out by Member States on approved undertakings;
- (c) Member States' communications with the Commission and with approved undertakings;
- (d) the delivery to undertakings of raw materials, including delivery contracts and delivery notes;
- (e) equivalence regarding sugar referred to in point (a) of the first subparagraph of Article 139(1);
- (f) the specific supply regime for the outermost regions;
- (g) exports as referred to in point (d) of the first subparagraph of Article 139(1);
- (h) Member State cooperation to ensure effective checks;
- (i) modifying the dates laid down in Article 141 for specific marketing years;
- (j) the establishment of the surplus quantity, the communications and payment of the surplus levy referred to in Article 142;
- (k) the adoption of a list of full-time refiners within the meaning of point 6 of Section B of Part II of Annex II.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Wine

Article 145

Vineyard register and inventory of production potential

1. Member States shall maintain a vineyard register which shall contain updated information on the production potential. From 1 January 2016, this obligation shall only apply if Member States implement the scheme of authorisations for vine plantings referred to in Chapter III of Title I, or a national support programme.

2. Until 31 December 2015, Member States in which the total area planted with vines of wine grape varieties classified in accordance with Article 81(2) is less than 500 hectares shall not be subject to the obligation laid down in paragraph 1 of this Article.

3. Member States which provide for restructuring and conversion of vineyards in their support programmes in accordance with Article 46 shall, on the basis of the vineyard register, submit to the Commission by 1 March each year an updated inventory of their production potential. From 1 January 2016, details in respect of communications to the Commission regarding wine-growing areas shall be laid down by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

4. In order to facilitate the monitoring and the verification of the production potential by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on the content of the vineyard register and exemptions therefrom.

Article 146

Competent national authorities for the wine sector

1. Without prejudice to any other provisions of this Regulation concerning the determination of competent national authorities, Member States shall designate one or more authorities which shall be responsible for ensuring compliance with Union rules in the wine sector. In particular, Member States shall designate the laboratories authorised to carry out official analyses in the wine sector. The designated laboratories shall satisfy the general criteria for the operation of testing laboratories set out in ISO/IEC 17025.

2. Member States shall inform the Commission of the names and addresses of the authorities and laboratories referred to in paragraph 1. The Commission shall make this information public and shall update it periodically.

Article 147

Accompanying documents and register

1. The products of the wine sector shall be put into circulation in the Union with an officially authorised accompanying document.

2. Natural or legal persons or groups of persons who hold products covered by the wine sector in the exercise of their trade, in particular producers, bottlers, processors and merchants, shall keep inward and outward registers in respect of those products.

3. In order to facilitate the transport of wine products and the verification thereof by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on:

(a) rules on the accompanying document and its use;

(b) the conditions under which an accompanying document is to be regarded as certifying protected designations of origin or geographical indications;

(c) an obligation to keep a register and its use;

(d) who is obliged to keep a register and exemptions from that obligation;

(e) the operations to be included in the register.

4. The Commission may adopt implementing acts establishing:

(a) rules on the composition of the registers, the products to be contained therein, deadlines for entries in registers and the closures of registers;

(b) measures requiring Member States to determine the maximum acceptable percentages for losses;

(c) general and transitional provisions for the keeping of registers;

(d) rules determining how long accompanying documents and the registers are to be kept.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 3

Milk and milk products

Article 148

Contractual relations in the milk and milk products sector

1. Where a Member State decides that every delivery of raw milk in its territory by a farmer to a processor of raw milk must be covered by a written contract between the parties and/or decides that first purchasers must make a written offer for a contract for the delivery of raw milk by the farmers, such contract and/or such offer for a contract shall fulfil the conditions laid down in paragraph 2.

Where a Member State decides that deliveries of raw milk by a farmer to a processor of raw milk must be covered by a written contract between the parties, it shall also decide which stage or stages of the delivery shall be covered by such a contract if the delivery of raw milk is made through one or more collectors.

For the purposes of this Article, a "collector" means an undertaking which transports raw milk from a farmer or another collector to a processor of raw milk or another collector, where the ownership of the raw milk is transferred in each case.

2. The contract and/or the offer for a contract referred to in paragraph 1 shall:

- (a) be made in advance of the delivery,
- (b) be made in writing, and
- (c) include, in particular, the following elements:
 - (i) the price payable for the delivery, which shall:
 - be static and be set out in the contract, and/or
 - be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions, the volume delivered and the quality or composition of the raw milk delivered,
 - (ii) the volume of raw milk which may and/or must be delivered and the timing of such deliveries,
 - (iii) the duration of the contract, which may include either a definite or an indefinite duration with termination clauses,
 - (iv) details regarding payment periods and procedures,
 - (v) arrangements for collecting or delivering raw milk, and
 - (vi) rules applicable in the event of force majeure.

3. By way of derogation from paragraph 1, a contract and/or an offer for a contract shall not be required where raw milk is delivered by a farmer to a co-operative of which the farmer is a member if the statutes of that cooperative or the rules and decisions provided for in or derived from these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 2.

4. All elements of contracts for the delivery of raw milk concluded by farmers, collectors or processors of raw milk, including the elements referred to in point (c) of paragraph 2, shall be freely negotiated between the parties.

Notwithstanding the first subparagraph, one or both of the following shall apply:

- (a) where a Member State decides to make a written contract for the delivery of raw milk compulsory in accordance with paragraph 1, it may establish a minimum duration, applicable only to written contracts between a farmer and the first purchaser of raw milk; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market;
- (b) where a Member State decides that the first purchaser of raw milk must make a written offer for a contract to the farmer in accordance with paragraph 1, it may provide that the offer must include a minimum duration for the contract,

set by national law for this purpose; such a minimum duration shall be at least six months, and shall not impair the proper functioning of the internal market.

The second subparagraph shall be without prejudice to the farmer's right to refuse such a minimum duration provided that he does so in writing. In such a case, the parties shall be free to negotiate all elements of the contract, including the elements referred to in point (c) of paragraph 2.

5. The Member States which make use of the options referred to in this Article shall notify the Commission of how they are applied.

6. The Commission may adopt implementing acts laying down measures necessary for the uniform application of points (a) and (b) of paragraph 2 and paragraph 3 of this Article and measures relating to notifications to be made by the Member States in accordance with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 149

Contractual negotiations in the milk and milk products sector

1. A producer organisation in the milk and milk products sector which is recognised under Article 152(3) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the third subparagraph of Article 148(1).

2. The negotiations by the producer organisation may take place:

- (a) whether or not there is a transfer of ownership of the raw milk by the farmers to the producer organisation;
- (b) whether or not the price negotiated is the same as regards the joint production of some or all of the farmer members;
- (c) provided that, for a particular producer organisation, all of the following conditions are fulfilled:
 - (i) the volume of raw milk covered by such negotiations does not exceed 3,5 % of total Union production,
 - (ii) the volume of raw milk covered by such negotiations which is produced in any particular Member State does not exceed 33 % of the total national production of that Member State, and
 - (iii) the volume of raw milk covered by such negotiations which is delivered in any particular Member State does not exceed 33 % of the total national production of that Member State;

- (d) provided that the farmers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf; however, Member States may derogate from this condition in duly justified cases where farmers hold two distinct production units located in different geographic areas;
- (e) provided that the raw milk is not covered by an obligation to deliver arising from the farmer's membership of a cooperative in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and
- (f) provided that the producer organisation notifies the competent authorities of the Member State or Member States in which it operates of the volume of raw milk covered by such negotiations.

3. Notwithstanding the conditions set out in of point (c)(ii) and (iii) of paragraph 2, a producer organisation may negotiate pursuant to paragraph 1 provided that, with regard to that producer organisation, the volume of raw milk covered by the negotiations which is produced in or delivered in a Member State having a total annual raw milk production of less than 500 000 tonnes does not exceed 45 % of the total national production of that Member State.

4. For the purposes of this Article, references to producer organisations include associations of such producer organisations.

5. For the purposes of applying point (c) of paragraph 2 and paragraph 3, the Commission shall publish, by such means as it considers appropriate, the amounts of raw milk production in the Union and the Member States using the most up-to-date information available.

6. By way of derogation from point (c) of paragraph 2 and paragraph 3, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition from being excluded or in order to avoid seriously damaging SME processors of raw milk in its territory.

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

7. For the purposes of this Article:

- (a) a "national competition authority" means the authority referred to in Article 5 of Council Regulation (EC) No 1/2003 ⁽¹⁾;
- (b) a "SME" means a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC.

8. The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (f) of paragraph 2 and of paragraph 6.

Article 150

Regulation of supply for cheese with a protected designation of origin or protected geographical indication

1. Upon the request of a producer organisation recognised under Article 152(3), an interbranch organisation recognised under Article 157(3) or a group of operators referred to in Article 3(2) of Regulation (EU) No 1151/2012, Member States may lay down, for a limited period of time, binding rules for the regulation of the supply of cheese benefiting from a protected designation of origin or from a protected geographical indication under Article 5(1) and (2) of Regulation (EU) No 1151/2012.

2. The rules referred to in paragraph 1 of this Article shall be subject to the existence of a prior agreement between the parties in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012. Such an agreement shall be concluded between at least two-thirds of the milk producers or their representatives representing at least two thirds of the raw milk used for the production of the cheese referred to in paragraph 1 of this Article and, where relevant, at least two-thirds of the producers of that cheese representing at least two thirds of the production of that cheese in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012.

3. For the purpose of paragraph 1, concerning cheese benefiting from a protected geographical indication, the geographical area of origin of the raw milk, as set in the product specification for the cheese, shall be the same as the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012 relating to that cheese.

4. The rules referred to in paragraph 1:

- (a) shall only cover the regulation of supply of the product concerned and shall have the aim of adapting the supply of that cheese to demand;
- (b) shall have effect only on the product concerned;

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 101 and 102 of the Treaty (OJ L 1, 4.1.2003, p. 1).

- (c) may be made binding for no more than three years and may be renewed after this period, following a new request, as referred to in paragraph 1;
- (d) shall not damage the trade in products other than those concerned by those rules;
- (e) shall not relate to any transaction after the first marketing of the cheese concerned;
- (f) shall not allow for price fixing, including where prices are set for guidance or recommendation;
- (g) shall not render unavailable an excessive proportion of the product concerned that would otherwise be available;
- (h) shall not create discrimination, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected;
- (i) shall contribute to maintaining the quality and/or the development of the product concerned;
- (j) shall be without prejudice to Article 149.

5. The rules referred to in paragraph 1 shall be published in an official publication of the Member State concerned.

6. Member States shall carry out checks in order to ensure that the conditions laid down in paragraph 4 are complied with, and, where it has been found by the competent national authorities that such conditions have not been complied with, shall repeal the rules referred to in paragraph 1.

7. Member States shall notify the Commission forthwith of the rules referred to in paragraph 1 which they have adopted. The Commission shall inform other Member States of any notification of such rules.

8. The Commission may at any time adopt implementing acts requiring that a Member State repeal the rules laid down by that Member State pursuant to paragraph 1 if the Commission finds that those rules do not comply with the conditions laid down in paragraph 4, prevent or distort competition in a substantial part of the internal market or jeopardise free trade or the attainment of the objectives of Article 39 TFEU. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3) of this Regulation.

Article 151

Compulsory declarations in the milk and milk products sector

From 1 April 2015, the first purchasers of raw milk shall declare to the competent national authority the quantity of raw milk that has been delivered to them each month.

For the purposes of this Article and Article 148, a "first purchaser" means an undertaking or group which buys milk from producers in order to:

- (a) subject it to collecting, packing, storing, chilling or processing, including under a contract;
- (b) sell it to one or more undertakings treating or processing milk or other milk products.

Member States shall notify the Commission of the quantity of raw milk referred to in the first subparagraph.

The Commission may adopt implementing acts laying down rules on the content, format and timing of such declarations and measures relating to the notifications to be made by the Member States in accordance with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER III

Producer organisations and associations and interbranch organisations

Section 1

Definition and recognition

Article 152

Producer organisations

1. Member States may, on request, recognise producer organisations, which:

- (a) are constituted, and controlled in accordance with point (c) of Article 153(2), by producers in a specific sector listed in Article 1(2);
- (b) are formed on the initiative of the producers;
- (c) pursue a specific aim which may include at least one of the following objectives:
- (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
- (ii) concentration of supply and the placing on the market of the products produced by its members, including through direct marketing;
- (iii) optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices;
- (iv) carrying out research and developing initiatives on sustainable production methods, innovative practices, economic competitiveness and market developments;

(v) promoting, and providing technical assistance for, the use of environmentally sound cultivation practices and production techniques, and sound animal welfare practices and techniques;

(vi) promoting, and providing technical assistance for, the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label;

(vii) the management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;

(viii) contributing to a sustainable use of natural resources and to climate change mitigation;

(ix) developing initiatives in the area of promotion and marketing;

(x) managing of the mutual funds referred to in operational programmes in the fruit and vegetables sector referred to in Article 31(2) of this Regulation and under Article 36 of Regulation (EU) No 1305/2013

(xi) providing the necessary technical assistance for the use of the futures markets and of insurance schemes.

2. A producer organisation recognised under paragraph 1 may continue to be recognised if it engages in the marketing of products falling within CN code ex 2208 other than those referred to in Annex I to the Treaties, provided that the proportion of such products does not exceed 49 % of the total value of marketed production of the producer organisation and that such products do not benefit from Union support. Those products do not count, for producer organisations in the fruit and vegetables sector, towards the calculation of the value of marketed production for the purposes of Article 34(2).

3. By way of derogation from paragraph 1, Member States shall recognise producer organisations, constituted by producers in the milk and milk products sector, which:

- (a) are formed on the initiative of the producers;
- (b) pursue a specific aim which may include one or more of the following objectives:
 - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
 - (ii) concentration of supply and the placing on the market of the products produced by its members;
 - (iii) optimising production costs and stabilising producer prices.

Article 153

Statutes of producer organisations

1. The statutes of a producer organisation shall require its producer members, in particular, to:

(a) apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;

(b) be members of only one producer organisation for any given product of the holding; however Member States may derogate from this condition in duly justified cases where producer members hold two distinct production units located in different geographical areas;

(c) provide the information requested by the producer organisation for statistical purposes.

2. The statutes of a producer organisation shall also provide for:

(a) procedures for determining, adopting and amending the rules referred to in point (a) of paragraph 1;

(b) the imposition on members of financial contributions needed to finance the producer organisation;

(c) rules enabling the producer members to scrutinise democratically their organisation and its decisions;

(d) penalties for infringement of obligations under the statutes, particularly for non-payment of financial contributions, or of the rules laid down by the producer organisation;

(e) rules on the admission of new members, and in particular the minimum period of membership which may not be less than one year;

(f) the accounting and budgetary rules necessary for the operation of the organisation.

3. Paragraphs 1 and 2 shall not apply to producer organisations in the milk and milk products sector.

Article 154

Recognition of producer organisations

1. In order to be recognised by a Member State, the producer organisation applying for such recognition shall be a legal entity or clearly defined part of a legal entity which:

(a) fulfils the requirements laid down in points (a), (b) and (c) of Article 152(1);

(b) has a minimum number of members and/or covers a minimum volume or value of marketable production, to be laid down by the Member State concerned, in the area where it operates;

(c) provides sufficient evidence that it can carry out its activities properly, both over time and in terms of effectiveness, provision of human, material and technical support to its members, and as appropriate concentration of supply;

(d) has statutes that are consistent with points (a), (b) and (c) of this paragraph.

2. Member States may decide that producer organisations which have been recognised before 1 January 2014 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are deemed to be recognised as producer organisations pursuant to Article 152.

3. Producer organisations which have been recognised before 1 January 2014 on the basis of national law and which do not fulfil the conditions laid down in paragraph 1 may continue to exercise their activities under national law until 1 January 2015.

4. Member States shall:

(a) decide whether to grant recognition to a producer organisation within four months of the lodging of an application, accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;

(b) carry out, at intervals to be determined by them, checks to verify that recognised producer organisations are complying with this Chapter;

(c) in the event of non-compliance or irregularities in the application of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties they have laid down and, if necessary, decide whether recognition should be withdrawn;

(d) inform the Commission by 31 March of each year, of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.

Article 155

Outsourcing

Member States may permit a recognised producer organisation or a recognised association of producer organisations in the sectors specified by the Commission in accordance with point (f) of Article 173(1) to outsource any of its activities other than production, including to subsidiaries, provided that the producer organisation or association of producer organisations remains

responsible for ensuring the carrying out of the outsourced activity and overall management control and supervision of the commercial arrangement for the carrying out of the activity.

Article 156

Associations of producer organisations

1. Member States may, on request, recognise associations of producer organisations in a specific sector listed in Article 1(2) which are formed at the initiative of recognised producer organisations.

Subject to the rules adopted pursuant to Article 173, associations of producer organisations may carry out any of the activities or functions of producer organisations.

2. By way of derogation from paragraph 1, Member States may, on request, recognise an association of recognised producer organisations in the milk and milk products sector if the Member State concerned considers that the association is capable of carrying out effectively any of the activities of a recognised producer organisation, and that it fulfils the conditions laid down in Article 161(1).

Article 157

Interbranch organisations

1. Member States may, on request, recognise interbranch organisations in a specific sector listed in Article 1(2) which:

(a) are constituted of representatives of economic activities linked to the production and to at least one of the following stages of the supply chain: the processing of or trade in, including distribution of, products in one or more sectors;

(b) are formed on the initiative of all or some of the organisations or associations which constitute them;

(c) pursue a specific aim taking account of the interests of their members and of consumers, which may include, in particular, one of the following objectives:

(i) improving knowledge and the transparency of production and the market, including by publication of aggregated statistical data on production costs, prices, including, where appropriate, price indices, volumes and duration of contracts which have been previously concluded, and by providing analyses of potential future market developments at regional, national or international level;

(ii) forecasting of production potential, and recording public market prices;

- (iii) helping to coordinate better the way the products are placed on the market, in particular by means of research and market studies;
- (iv) exploring potential export markets;
- (v) without prejudice to Articles 148 and 168, drawing up standard forms of contract, compatible with Union rules, for the sale of agricultural products to purchasers and/or the supply of processed products to distributors and retailers, taking into account the need to achieve fair competitive conditions and to avoid market distortions;
- (vi) exploiting to a fuller extent the potential of the products, including at the level of market outlets, and developing initiatives to strengthen economic competitiveness and innovation;
- (vii) providing the information and carrying out the research necessary to innovate, rationalise, improve and adjust production and, where applicable, the processing and marketing, towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality, including the specific characteristics of products with a protected designation of origin or a protected geographical indication, and protection of the environment;
- (viii) seeking ways of restricting the use of animal-health or plant protection products, better managing other inputs, ensuring product quality and soil and water conservation, promoting food safety, in particular through traceability of products, and improving animal health and welfare;
- (ix) developing methods and instruments for improving product quality at all stages of production and, where applicable, of processing and marketing;
- (x) taking all possible actions to uphold, protect and promote organic farming and designations of origin, quality labels and geographical indications;
- (xi) promoting and carrying out research into integrated, sustainable production or other environmentally sound production methods;
- (xii) encouraging healthy and responsible consumption of the products on the internal market and/or informing about the harm linked to hazardous consumption patterns;
- (xiii) promoting consumption of, and/or furnishing information concerning, products on the internal market and external markets;
- (xiv) contributing to the management of by-products and the reduction and management of waste.
2. In duly justified cases, Member States may decide on the basis of objective and non-discriminatory criteria that the condition in point (c) of Article 158(1) is fulfilled by limiting the number of interbranch organisations on a regional or national level if so provided for by national rules in place before 1 January 2014, and where this does not impair the proper functioning of the internal market.
3. By way of derogation from paragraph 1, as regards the milk and milk products sector, Member States may recognise interbranch organisations which:
- (a) have formally requested recognition and are made up of representatives of economic activities linked to the production of raw milk and linked to at least one of the following stages of the supply chain: the processing of or trade in, including distribution of, products of the milk and milk products sector;
- (b) are formed on the initiative of all or some of the representatives referred to in point (a);
- (c) carry out, in one or more regions of the Union, taking into account the interests of the members of those interbranch organisations and of consumers, one or more of the following activities:
- (i) improving the knowledge and the transparency of production and the market, including by publication of statistical data on the prices, volumes and durations of contracts for the delivery of raw milk which have been previously concluded, and by providing analyses of potential future market developments at regional, national and international level;
- (ii) helping to coordinate better the way the products of the milk and milk products sector are placed on the market, in particular by means of research and market studies;
- (iii) promoting consumption of, and providing information on, milk and milk products in both internal and external markets;
- (iv) exploring potential export markets;
- (v) drawing up standard forms of contract compatible with Union rules for the sale of raw milk to purchasers or the supply of processed products to distributors and retailers, taking into account the need to achieve fair competitive conditions and to avoid market distortions;

- (vi) providing the information and carrying out the research necessary to adjust production in favour of products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;
- (vii) maintaining and developing the production potential of the dairy sector, inter alia, by promoting innovation and supporting programmes for applied research and development in order to exploit the full potential of milk and milk products, especially in order to create products with added value which are more attractive to the consumer;
- (viii) seeking ways of restricting the use of animal health products, improving the management of other inputs and enhancing food safety and animal health;
- (ix) developing methods and instruments for improving product quality at all stages of production and marketing;
- (x) exploiting the potential of organic farming and protecting and promoting such farming as well as the production of products with designations of origin, quality labels and geographical indications; and
- (xi) promoting integrated production or other environmentally sound production methods.

Article 158

Recognition of interbranch organisations

1. Member States may recognise interbranch organisations applying for such recognition, provided that they:
 - (a) fulfil the requirements laid down in Article 157;
 - (b) carry out their activities in one or more regions in the territory concerned;
 - (c) account for a significant share of the economic activities referred to in point (a) of Article 157(1);
 - (d) with the exception of the cases laid down in Article 162, do not, themselves, engage in production, processing or trade.

2. Member States may decide that interbranch organisations which have been recognised before 1 January 2014 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are deemed to be recognised as interbranch organisations pursuant to Article 157.

3. Interbranch organisations which have been recognised before 1 January 2014 on the basis of national law and which do not fulfil the conditions laid down in paragraph 1 of this Article may continue to exercise their activities under national law until 1 January 2015.

4. Member States may recognise interbranch organisations in all sectors existing prior to 1 January 2014, whether they were recognised on request or established by law, even though they do not fulfil the condition laid down in point (b) of Article 157(1) or in point (b) of Article 157(3).

5. Where Member States recognise an interbranch organisation in accordance with paragraph 1 or 2, they shall:

- (a) decide whether to grant recognition within four months of the lodging of an application with all relevant supporting documents; this application shall be lodged with the Member State where the organisation has its headquarters;
- (b) carry out, at intervals to be determined by them, checks to verify that recognised interbranch organisations are complying with the conditions governing their recognition;
- (c) in the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, impose on those organisations the applicable penalties they have laid down and, if necessary, decide whether recognition should be withdrawn;
- (d) withdraw recognition if the requirements and conditions for recognition laid down in this Article are no longer met;
- (e) inform the Commission by 31 March of each year of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.

Section 2

Additional rules for specific sectors

Article 159

Obligatory recognition

By way of derogation from Articles 152 to 158, Member States shall, on request, recognise:

- (a) producer organisations in:
 - (i) the fruit and vegetables sector in respect of one or more products of that sector and/or such products solely intended for processing,
 - (ii) the olive oil and table olives sector,

- (iii) the silkworm sector,
 - (iv) the hops sector;
- (b) interbranch organisations in the olive oil and table olives sector and the tobacco sector.

Article 160

Producer organisations in the fruit and vegetables sector

In the fruit and vegetables sector producer organisations shall pursue at least one of the objectives set out in points (c)(i), (ii) and (iii) of Article 152(1).

The statutes of a producer organisation in the fruit and vegetables sector shall require its producer members to market their entire production concerned through the producer organisation.

Producer organisations and associations of producer organisations in the fruit and vegetables sector shall be deemed to be acting in the name and on behalf of their members in economic matters within their terms of reference.

Article 161

Recognition of producer organisations in the milk and milk products sector

1. Member States shall recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of legal entities applying for such recognition, provided that:

- (a) they fulfil the requirements laid down in Article 152(3);
- (b) they have a minimum number of members and/or cover a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where they operate;
- (c) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply;
- (d) they have statutes that are consistent with points (a), (b) and (c) of this paragraph.

2. Member States may decide that producer organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are to be considered to be recognised as producer organisations pursuant to Article 152(3).

3. Member States shall:

- (a) decide whether to grant recognition to a producer organisation within four months of the lodging of an application,

accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;

- (b) carry out, at intervals to be determined by them, checks to verify that recognised producer organisations and associations of producer organisations are complying with the provisions of this Chapter;
- (c) in the event of non-compliance or irregularities in the implementation of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties that they have laid down and, if necessary, decide whether recognition should be withdrawn;
- (d) inform the Commission by 31 March of each year of every decision to grant, refuse or withdraw recognition which they have taken during the previous calendar year.

Article 162

Interbranch organisations in the olive oil and table olives and tobacco sectors

For interbranch organisations in the olive oil and table olives and tobacco sectors, the specific aim referred to in point (c) of Article 157(1) may also include at least one of the following objectives:

- (a) concentrating and co-ordinating supply and marketing of the produce of the members;
- (b) adapting production and processing jointly to the requirements of the market and improving the product;
- (c) promoting the rationalisation and improvement of production and processing.

Article 163

Recognition of interbranch organisations in the milk and milk products sector

1. Member States may recognise interbranch organisations in the milk and milk products sector provided that such organisations:

- (a) fulfil the requirements laid down in Article 157(3);
- (b) carry out their activities in one or more regions in the territory concerned;
- (c) account for a significant share of the economic activities referred to in point (a) of Article 157(3);
- (d) do not themselves engage in the production of, the processing of, or the trade in, products in the milk and milk products sector.

2. Member States may decide that interbranch organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 are to be considered to be recognised as interbranch organisations under Article 157(3).

3. Where Member States make use of the option to recognise an interbranch organisation in accordance with paragraph 1 or 2, they shall:

- (a) decide whether to grant recognition to the interbranch organisation within four months of the lodging of an application, accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;
- (b) carry out, at intervals to be determined by them, checks to verify that recognised interbranch organisations are complying with the conditions governing their recognition;
- (c) in the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, impose on those organisations the applicable penalties they have laid down and, if necessary, decide whether recognition should be withdrawn;
- (d) withdraw recognition if:
 - (i) the requirements and conditions for recognition laid down in this Article are no longer fulfilled;
 - (ii) the interbranch organisation takes part in any of the agreements, decisions and concerted practices referred to in Article 210(4); such withdrawal of recognition shall be without prejudice to any other penalties to be imposed pursuant to national law;
 - (iii) the interbranch organisation fails to comply with the notification obligation referred to in point (a) of the first subparagraph of Article 210(2);
- (e) inform the Commission by 31 March of each year of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.

Section 3

Extension of rules and compulsory contributions

Article 164

Extension of rules

1. In cases where a recognised producer organisation, a recognised association of producer organisations or a recognised interbranch organisation operating in a specific economic area

or areas of a Member State is considered to be representative of the production of or trade in, or processing of, a given product, the Member State concerned may, at the request of that organisation, make binding for a limited period of time some of the agreements, decisions or concerted practices agreed within that organisation on other operators acting in the economic area or areas in question, whether individuals or groups, who do not belong to the organisation or association.

2. For the purposes of this Section, an "economic area" means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.

3. An organisation or association shall be deemed representative where, in the economic area or areas concerned of a Member State, it accounts for:

- (a) as a proportion of the volume of production of, or of trade in, or of processing of the product or products concerned:
 - (i) for producer organisations in the fruit and vegetables sector, at least 60 %, or
 - (ii) in other cases, at least two thirds; and
- (b) in the case of producer organisations, more than 50 % of the producers concerned.

However, where, in the case of interbranch organisations, the determination of the proportion of the volume of production, or of trade in, or of processing of the product or products concerned gives rise to practical difficulties, a Member State may lay down national rules for determining the specified level of representativeness referred to in point (a)(ii) of the first subparagraph.

Where the request for an extension of its rules to other operators covers more than one economic area, the organisation or association shall demonstrate the minimum level of representativeness as defined in the first subparagraph for each of the branches it groups in each of the economic areas concerned.

4. The rules for which extension to other operators may be requested as provided for in paragraph 1 shall have one of the following aims:

- (a) production and market reporting;
- (b) stricter production rules than those laid down in Union or national rules;
- (c) the drawing up of standard contracts which are compatible with Union rules;

- (d) marketing;
- (e) protecting the environment;
- (f) measures to promote and exploit the potential of products;
- (g) measures to protect organic farming as well as designations of origin, quality labels and geographical indications;
- (h) research to add value to the products, in particular through new uses which do not pose a threat to public health;
- (i) studies to improve the quality of products;
- (j) research, in particular into methods of cultivation permitting reduced use of plant protection or animal health products and guaranteeing conservation of the soil and conservation or improvement of the environment;
- (k) the definition of minimum qualities and definition of minimum standards of packing and presentation;
- (l) the use of certified seed and monitoring of product quality;
- (m) animal health, plant health or food safety;
- (n) the management of by-products.

Those rules shall not cause any damage to other operators in the Member State concerned or the Union and shall not have any of the effects listed in Article 210(4) or be otherwise incompatible with Union law or national rules in force.

5. The extension of the rules referred to in paragraph 1 shall be brought to the attention of operators by publication in full in an official publication of the Member State concerned.

6. Member States shall notify the Commission of any decisions taken under this Article.

Article 165

Financial contributions of non-members

Where rules of a recognised producer organisation, a recognised association of producer organisations or a recognised inter-branch organisation are extended under Article 164 and the activities covered by those rules are in the general economic interest of economic operators whose activities relate to the products concerned, the Member State which has granted recognition may, after consulting the relevant stakeholders, decide that individual economic operators or groups which are not members of the organisation but which benefit from those activities shall pay the organisation all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.

Section 4

Adjustment of supply

Article 166

Measures to facilitate the adjustment of supply to market requirements

In order to encourage action by the organisations referred to in Articles 152 to 163 to facilitate the adjustment of supply to market requirements, with the exception of action relating to withdrawal from the market, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning measures in the sectors listed in Article 1(2):

- (a) improving quality;
- (b) promoting better organisation of production, processing and marketing;
- (c) facilitating the recording of market price trends;
- (d) permitting the establishment of short and long-term forecasts on the basis of the means of production used.

Article 167

Marketing rules to improve and stabilise the operation of the common market in wines

1. In order to improve and stabilise the operation of the common market in wines, including the grapes, musts and wines from which they derive, producer Member States may lay down marketing rules to regulate supply, particularly by way of decisions taken by interbranch organisations recognised under Articles 157 and 158.

Such rules shall be proportionate to the objective pursued and shall not:

- (a) relate to any transaction after the first marketing of the produce concerned;
- (b) allow for price fixing, including where prices are set for guidance or recommendation;
- (c) render unavailable an excessive proportion of the vintage that would otherwise be available;
- (d) provide scope for refusing to issue the national and Union certificates required for the circulation and marketing of wines where such marketing is in accordance with those rules.

2. The rules provided for in paragraph 1 shall be brought to the attention of operators by being published in full in an official publication of the Member State concerned.

3. Member States shall notify the Commission of any decisions taken under this Article.

Section 5

Contract systems

Article 168

Contractual relations

1. Without prejudice to Article 148 concerning the milk and milk products sector and Article 125 concerning the sugar sector, if a Member State decides, in respect of agricultural products from a sector listed in Article 1(2), other than milk and milk products and sugar:

- (a) that every delivery in its territory of those products by a producer to a processor or distributor must be covered by a written contract between the parties; and/or
- (b) that the first purchasers must make a written offer for a contract for the delivery in its territory of those agricultural products by the producer,

such a contract or such an offer for a contract shall fulfil the conditions laid down in paragraphs 4 and 6 of this Article.

2. Where the Member State decides that deliveries of the products covered by this Article by a producer to a processor must be covered by a written contract between the parties, it shall also decide which stage or stages of the delivery shall be covered by such a contract if delivery of the products concerned is made through one or more intermediaries.

Member States shall ensure that the provisions that they adopt under this Article do not impair the proper functioning of the internal market.

3. In the case described in paragraph 2, the Member State may establish a mediation mechanism to cover cases in which there is no mutual agreement to conclude such a contract, thereby ensuring fair contractual relations.

4. Any contract or offer for a contract referred to in paragraph 1 shall:

- (a) be made in advance of the delivery;
- (b) be made in writing; and
- (c) include, in particular, the following elements:
 - (i) the price payable for the delivery, which shall:
 - be static and be set out in the contract, and/or
 - be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions,

the quantities delivered and the quality or composition of the agricultural products delivered,

- (ii) the quantity and quality of the products concerned which may or must be delivered and the timing of such deliveries,
- (iii) the duration of the contract, which may include either a definite duration or an indefinite duration with termination clauses,
- (iv) details regarding payment periods and procedures,
- (v) arrangements for collecting or delivering the agricultural products, and
- (vi) rules applicable in the event of force majeure.

5. By way of derogation from paragraph 1, a contract or an offer for a contract shall not be required where the products concerned are delivered by a producer to a purchaser which is a cooperative of which the producer is a member if the statutes of that cooperative or the rules and decisions provided for in, or derived from, these statutes contain provisions having similar effects to the provisions set out in points (a), (b) and (c) of paragraph 4.

6. All elements of contracts for the delivery of agricultural products concluded by producers, collectors, processors or distributors, including those elements referred to in point (c) of paragraph 4, shall be freely negotiated between the parties.

Notwithstanding the first subparagraph, one or both of the following shall apply:

- (a) where a Member State decides to make written contracts for the delivery of agricultural products compulsory in accordance with paragraph 1, it may establish a minimum duration, applicable only to written contracts between a producer and the first purchaser of the agricultural products. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market;
- (b) where a Member State decides that the first purchaser of agricultural products must make the producer a written offer for a contract in accordance with paragraph 1, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market.

The second subparagraph shall be without prejudice to the producer's right to refuse such a minimum duration provided that he does so in writing. In this case, the parties shall be free to negotiate all elements of the contract, including those elements referred to in point (c) of paragraph 4.

7. Member States which make use of the options referred to in this Article shall ensure that the provisions set in place do not impair the proper functioning of the internal market.

Member States shall notify the Commission of how they apply any measures introduced under this Article.

8. The Commission may adopt implementing acts laying down the measures necessary for the uniform application of points (a) and (b) of paragraph 4 and paragraph 5 of this Article and measures relating to notifications to be made by the Member States in accordance with this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 169

Contractual negotiations in the olive oil sector

1. A producer organisation in the olive oil sector which is recognised under Article 152(1) and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs, may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of olive oil.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU.

This could be realised provided that:

- (a) the producer organisation carries out at least one of the following activities:
- (i) joint distribution, including joint selling platform or joint transportation;
 - (ii) joint packaging, labelling or promotion;
 - (iii) joint organising of quality control;
 - (iv) joint use of equipment or storage facilities;
 - (v) joint processing;
 - (vi) joint management of waste directly related to the production of olive oil;
 - (vii) joint procurement of inputs;
- (b) these activities are significant in terms of volume of olive oil concerned and in terms of cost of the production and placing of the product on the market.

2. The negotiations by the recognised producer organisation may take place:

- (a) whether or not there is a transfer of ownership of the olive oil in question by the producers to the producer organisation;
- (b) whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;
- (c) provided that, for a particular producer organisation, the volume of olive oil production covered by such negotiations which is produced in any particular Member State does not exceed 20 % of the relevant market; for the purpose of calculating that volume, a distinction shall be made between olive oil for human consumption and olive oil for other uses;
- (d) provided that, for the volume of olive oil covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;
- (e) provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;
- (f) provided that the olive oil in question is not covered by an obligation to supply arising from the producer's membership of a cooperative, which is not itself a member of the concerned producer organisation, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and
- (g) provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the volume of olive oil production covered by such negotiations.

3. For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 156(1).

4. For the purposes of applying point (c) of paragraph 2, the Commission shall publish, by such means as it considers appropriate, the volume of olive oil production in Member States.

5. By way of derogation from point (c) of paragraph 2, even where the threshold set out therein is not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded or if it finds that the objectives of Article 39 TFEU are jeopardised.

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

For the purposes of this Article, the definition of "national competition authority" in point (a) of Article 149(7) shall apply.

6. The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5.

Article 170

Contractual negotiations in the beef and veal sector

1. A producer organisation in the beef and veal sector which is recognised under Article 152(1) and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of live cattle of genus *Bos taurus* for slaughter falling within CN codes ex 0102 29 21, ex 0102 29 41, ex 0102 29 51, ex 0102 29 61, or ex 0102 29 91:

- (a) aged less than 12 months; and
- (b) aged from 12 months and older.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU.

This could be realised provided that:

- (a) the producer organisation carries out at least one of the following activities:
 - (i) joint distribution, including joint selling platform or joint transportation;
 - (ii) joint promotion;
 - (iii) joint organising of quality control;
 - (iv) joint use of equipment or storage facilities;

- (v) joint management of waste directly related to the production of live cattle;

- (vi) joint procurement of inputs;

- (b) these activities are significant in terms of quantity of beef and veal concerned and in terms of cost of the production and placing of the product on the market.

2. The negotiations by the recognised producer organisation may take place:

- (a) whether or not there is a transfer of ownership by the farmers to the producer organisation;

- (b) whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;

- (c) provided that, for a particular producer organisation, the quantity of beef and veal production covered by such negotiations which is produced in any particular Member State does not exceed 15 % of the total national production of each product referred to in (a) and (b) of the first subparagraph of paragraph 1 of that Member State expressed in carcass weight equivalent;

- (d) provided that, for the quantity of beef and veal covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;

- (e) provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;

- (f) provided that the product in question is not covered by an obligation to supply arising from the producer's membership of a cooperative, which is not itself a member of the concerned producer organisation, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and

- (g) provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the quantity of beef and veal production covered by such negotiations.

3. For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 156(1).

4. For the purposes of applying point (c) of paragraph 2, the Commission shall publish, by such means as it considers appropriate, the quantity of beef and veal production in Member States expressed in carcass weight equivalent.

5. By way of derogation from point (c) of paragraph 2, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded or it finds that the product covered by the negotiations forms part of a separate market by virtue of the specific characteristics of the product or its intended use and that such collective negotiation would cover more than 15 % of the national production of such market, or if it finds that the objectives of Article 39 TFEU are jeopardised.

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

For the purposes of this Article, the definition of "national competition authority" in point (a) of Article 149(7) shall apply.

6. The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5.

Article 171

Contractual negotiations for certain arable crops

1. A producer organisation which is recognised under Article 152(1) and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs, may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of one or more of the following products not intended for sowing and in the case of barley not intended for malting:

- (a) common wheat falling within CN code ex 1001 99 00;
- (b) barley falling within CN code ex 1003 90 00;
- (c) maize falling within CN code 1005 90 00;
- (d) rye falling within CN code 1002 90 00;
- (e) durum wheat falling within CN code 1001 19 00;
- (f) oats falling within CN code 1004 90 00;
- (g) triticale falling within CN code ex 1008 60 00;

- (h) rapeseed falling within CN code ex 1205;
- (i) sunflower seed falling within CN code ex 1206 00;
- (j) soya beans falling within CN code 1201 90 00;
- (k) field beans falling within CN codes ex 0708 and ex 0713;
- (l) field peas falling within CN codes ex 0708 and ex 0713.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of those objectives leads to the integration of activities and such integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 TFEU.

This could be realised provided that:

- (a) the producer organisation carries out at least one of the following activities:
 - (i) joint distribution, including joint selling platform or joint transportation;
 - (ii) joint promotion;
 - (iii) joint organising of quality control;
 - (iv) joint use of equipment or storage facilities;
 - (v) joint procurement of inputs;
 - (b) these activities are significant in terms of quantity of the product concerned and in terms of cost of the production and placing of the product on the market.
2. The negotiations by the recognised producer organisation may take place:
- (a) whether or not there is a transfer of ownership by the producers to the producer organisation;
 - (b) whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;
 - (c) provided that, for each product referred to in paragraph 1 and for a particular producer organisation, the quantity of production covered by such negotiations which is produced in any particular Member State does not exceed 15 % of the total national production of that product in the Member State concerned;
 - (d) provided that, for the quantity of products covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;
 - (e) provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;

(f) provided that the product in question is not covered by an obligation to supply arising from the producer's membership of a cooperative, which is not itself a member of the concerned producer organisation, in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and

(g) provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the quantity of production for each product covered by such negotiations.

3. For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 156(1).

4. For the purposes of applying point (c) of paragraph 2, the Commission shall publish for the products referred to in paragraph 1, by such means as it considers appropriate, the quantity of production in Member States.

5. By way of derogation from point (c) of paragraph 2, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded, or it finds that the product covered by the negotiations forms part of a separate market by virtue of the specific characteristics of the product or its intended use and that such collective negotiation would cover more than 15 % of the national production of such market, or if it finds that the objectives of Article 39 TFEU are jeopardised.

For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate.

The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.

For the purposes of this Article, the definition of "national competition authority" in point (a) of Article 149(7) shall apply.

6. The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5.

Article 172

Regulation of supply for ham with a protected designation of origin or protected geographical indication

1. Upon the request of a producer organisation recognised under Article 152(1) of this Regulation, an interbranch organisation recognised under Article 157(1) of this Regulation or a

group of operators referred to in Article 3(2) of Regulation (EU) No 1151/2012, Member States may lay down, for a limited period of time, binding rules for the regulation of the supply of ham benefiting from a protected designation of origin or from a protected geographical indication under Article 5(1) and (2) of Regulation (EU) No 1151/2012.

2. The rules referred to in paragraph 1 of this Article shall be subject to the existence of a prior agreement between the parties in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012. Such an agreement shall be concluded, after consultation with pig producers in the geographical area, between at least two thirds of the processors of that ham representing at least two thirds of the production of that ham in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012 and, if considered to be appropriate by the Member State, at least two thirds of the pig producers in the geographical area referred to in point (c) of Article 7(1) of Regulation (EU) No 1151/2012.

3. The rules referred to in paragraph 1:

(a) shall only cover the regulation of supply of the product concerned and/or its raw material and shall have the aim of adapting the supply of that ham to demand;

(b) shall have effect only on the product concerned;

(c) may be made binding for no more than three years and may be renewed after this period, following a new request, as referred to in paragraph 1;

(d) shall not damage the trade in products other than those concerned by those rules;

(e) shall not relate to any transaction after the first marketing of the ham concerned;

(f) shall not allow for price fixing, including where prices are set for guidance or recommendation;

(g) shall not render unavailable an excessive proportion of the product concerned that would otherwise be available;

(h) shall not create discrimination, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected;

(i) shall contribute to maintaining the quality and/or the development of the product concerned.

4. The rules referred to in paragraph 1 shall be published in an official publication of the Member State concerned.

5. Member States shall carry out checks in order to ensure that the conditions laid down in paragraph 3 are complied with, and, where it has been found by the competent national authorities that such conditions have not been complied with, shall repeal the rules referred to in paragraph 1.

6. Member States shall notify the Commission forthwith of the rules referred to in paragraph 1 which they have adopted. The Commission shall inform other Member States of any notification of such rules.

7. The Commission may at any time adopt implementing acts requiring that a Member State repeal the rules laid down by that Member State pursuant to paragraph 1 if the Commission finds that those rules do not comply with the conditions laid down in paragraph 4, prevent or distort competition in a substantial part of the internal market or jeopardise free trade or the attainment of the objectives of Article 39 TFEU. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3) of this Regulation.

Section 6

Procedural rules

Article 173

Delegated powers

1. In order to ensure that the objectives and responsibilities of producer organisations, associations of producer organisations and interbranch organisations are clearly defined so as to contribute to the effectiveness of the actions of such organisations and associations without resulting in undue administrative burden and without undermining the principle of freedom of association in particular toward non-members of such organisations, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning the following matters regarding producer organisations, associations of producer organisations, and interbranch organisations for one or more of the sectors referred to in Article 1(2), or specific products of those sectors:

- (a) the specific aims which may, must or must not be pursued by such organisations and associations and, where applicable, added to those laid down in Articles 152 to 163;
- (b) the rules of such organisations and associations, the statutes of organisations other than producer organisations, the specific conditions applicable to the statutes of producer organisations in certain sectors, including derogations from the obligation to market the entire production through the producer organisation referred to in the second paragraph of Article 160, the structure, membership period, size, accountability and activities of such organisations and associations, the effects deriving from recognition, the withdrawal of recognition, and mergers;
- (c) the conditions for recognition, withdrawal and suspension of recognition, the effects deriving from recognition, withdrawal and suspension of recognition as well as

requirements for such organisations and associations to take remedial measures in the event of non-respect of the recognition criteria;

- (d) transnational organisations and associations including the rules referred to in points (a), (b) and (c) of this paragraph;
 - (e) rules relating to the establishment and the conditions of administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation;
 - (f) the sectors to which Article 161 applies, the conditions for the outsourcing of activities, the nature of activities that may be outsourced and the provision of technical means by organisations or associations;
 - (g) the basis for the calculation of minimum volume or value of marketable production of organisations and associations;
 - (h) the acceptance of members who are not producers in the case of producer organisations and who are not producer organisations in the case of associations of producer organisations;
 - (i) the extension of certain rules of the organisations provided for in Article 164 to non-members and the compulsory payment of subscriptions by non-members referred to in Article 165 including the use and allocation of that payment by those organisations and a list of the stricter production rules which may be extended under point (b) of the first subparagraph of Article 164(4), while ensuring that such organisations are transparent and accountable toward non-members and that members of such organisations do not enjoy a more favourable treatment than non-members, in particular as to the use of the compulsory payment of subscriptions;
 - (j) further requirements as regards representativeness of the organisations referred to in Article 164, the economic areas concerned, including Commission scrutiny of their definition, minimum periods during which the rules shall apply before their extension, the persons or organisations to whom the rules or contributions may be applied, and the circumstances in which the Commission may require that the extension of rules or compulsory contributions be refused or withdrawn.
2. By way of derogation from paragraph 1, in order to ensure that the objectives and responsibilities of producer organisations, associations of producer organisations and interbranch organisations in the milk and milk products sector are clearly defined, so as to contribute to the effectiveness of the actions of such organisations without imposing an undue burden, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:
- (a) the conditions for recognising transnational producer organisations and transnational associations of producer organisations;

- (b) rules relating to the establishment and the conditions of administrative assistance to be given to producer organisations, including associations of producer organisations by the relevant competent authorities in the case of transnational cooperation;
- (c) additional rules regarding the calculation of the volume of raw milk covered by the negotiations referred to in point (c) of Article 149(2) and Article 149(3);
- (d) rules concerning the extension of certain rules of the organisations provided for in Article 164 to non-members and the compulsory payment of subscriptions by non-members referred to in Article 165.

Article 174

Implementing powers in accordance with the examination procedure

1. The Commission may adopt implementing acts laying down the measures necessary for the application of this Chapter, in particular:

- (a) measures for the implementation of the conditions for recognition of producer organisations and interbranch organisations set out in Articles 154 and 158;
- (b) procedures in the event of a merger of producer organisations;
- (c) procedures to be determined by Member States in relation to the minimum size and minimum membership period;
- (d) procedures relating to the extension of rules and financial contributions as referred to in Articles 164 and 165, in particular the implementation of the concept of "economic area" referred to in Article 164(2);
- (e) procedures relating to administrative assistance;
- (f) procedures relating to the outsourcing of activities;
- (g) procedures and technical conditions as regards the implementation of the measures referred to in Article 166.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. By way of derogation from paragraph 1, as regards the milk and the milk product sector, the Commission may adopt implementing acts laying down detailed rules necessary for:

- (a) the implementation of the conditions for recognition of producer organisations and their associations and interbranch organisations set out in Articles 161 and 163;
- (b) the notification referred to in point (f) of Article 149(2);

- (c) the notifications to be made by the Member States to the Commission in accordance with point (d) of Article 161(3), point (e) of Article 163(3), Article 149(8) and Article 150(7);

- (d) the procedures relating to administrative assistance in the case of transnational cooperation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 175

Other implementing powers

The Commission may, by means of implementing acts, adopt individual decisions regarding:

- (a) the recognition of organisations carrying out activities in more than one Member State, pursuant to the rules adopted under point (d) of Article 174(1);
- (b) the objection to, or the withdrawal of, recognition of an interbranch organisation by a Member State;
- (c) the list of economic areas notified by Member States pursuant to the rules adopted under point (h) of Article 174(1) and point (d) of Article 174(2);
- (d) the requirement that a Member State refuse or repeal an extension of rules or financial contributions by non-members decided on by that Member State.

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

PART III

TRADE WITH THIRD COUNTRIES

CHAPTER I

Import and export licences

Article 176

General rules

1. Without prejudice to cases where import or export licences are required in accordance with this Regulation, the import for release into free circulation into, or the export of one or more products of the following sectors from, the Union may be made subject to the presentation of a licence:

- (a) cereals;
- (b) rice;
- (c) sugar;
- (d) seeds;

- (e) olive oil and table olives, with regard to products falling within CN codes 1509, 1510 00, 0709 92 90, 0711 20 90, 2306 90 19, 1522 00 31 and 1522 00 39;
- (f) flax and hemp, as far as hemp is concerned;
- (g) fruit and vegetables;
- (h) processed fruit and vegetables;
- (i) bananas;
- (j) wine;
- (k) live plants;
- (l) beef and veal;
- (m) milk and milk products;
- (n) pigmeat;
- (o) sheepmeat and goatmeat;
- (p) eggs;
- (q) poultrymeat;
- (r) ethyl alcohol of agricultural origin.

2. Licences shall be issued by Member States to any applicant, irrespective of their place of establishment in the Union, unless an act adopted in accordance with Article 43(2) TFEU provides otherwise, and without prejudice to the application of Articles 177, 178 and 179 of this Regulation.

3. Licences shall be valid throughout the Union.

Article 177

Delegated powers

1. In order to take into account the international obligations of the Union and the applicable Union social, environmental and animal welfare standards, the need to monitor the evolution of trade and market developments, of imports and exports of products, the need for sound market management and the need to reduce the administrative burden, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 determining:

- (a) the list of the products of the sectors referred to in Article 176(1) subject to the presentation of an import or export licence;
- (b) the cases and situations where the presentation of an import or export licence is not required, taking account of the

customs status of the products concerned, the trade arrangements to be respected, the purposes of operations, the legal status of the applicant and the quantities involved.

2. In order to provide further elements of the licence system, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down rules on:

- (a) the rights and obligations deriving from the licence, its legal effects, and the cases where a tolerance applies as regards compliance with the obligation to import or export the quantity mentioned in the licence or where the origin is to be indicated in the licence;
- (b) the issue of an import licence or the release into free circulation being subject to the presentation of a document issued by a third country or an entity certifying inter alia the origin, the authenticity and the quality characteristics of the products;
- (c) the transfer of the licence or restrictions on its transferability;
- (d) additional conditions for import licences for hemp in accordance with Article 189 and the principle of administrative assistance between Member States to prevent or deal with cases of fraud and irregularities;
- (e) the cases and situations where the lodging of a security guaranteeing that the products are imported or exported within the period of validity of the licence is or is not required.

Article 178

Implementing powers in accordance with the examination procedure

The Commission shall adopt implementing acts laying down the measures necessary for the application of this Chapter, including rules on:

- (a) the format and content of the licence;
- (b) the submission of applications and the issuing of licences and their use;
- (c) the period of validity of the licence,
- (d) the procedures for, and the amount of, a security to be lodged;
- (e) the proof that the requirements for the use of licences have been fulfilled;
- (f) the level of the tolerance as regards the respect of the obligation to import or export the quantity mentioned in the licence;
- (g) the issue of replacement licences and duplicate licences;

(h) the treatment of licences by Member States and the exchange of information needed for the management of the system, including the procedures relating to the specific administrative assistance between Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 179

Other implementing powers

The Commission may adopt implementing acts:

- (a) limiting the quantities for which licences may be issued;
- (b) rejecting the quantities applied for;
- (c) suspending the submission of applications in order to manage the market where large quantities are applied for.

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

CHAPTER II

Import duties

Article 180

Implementation of international agreements and certain other acts

The Commission shall adopt implementing acts laying down measures to comply with requirements laid down in international agreements which have been concluded in accordance with the TFEU or in any other relevant act adopted in accordance with Article 43(2) or Article 207 TFEU or the Common Customs Tariff as regards the calculation of import duties for agricultural products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 181

Entry price system for certain products of the fruit and vegetables, processed fruit and vegetables and wine sectors

1. For the application of the Common Customs Tariff duty rate for products of the fruit and vegetables and processed fruit and vegetables sectors and for grape juice and musts, the entry price of a consignment shall be equal to its customs value calculated in accordance with Council Regulation (EC) No 2913/92⁽¹⁾ (the Customs Code) and Commission Regulation (EC) No 2454/93⁽²⁾.

⁽¹⁾ Council Regulation (EC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).
⁽²⁾ Commission Regulation (EC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

2. In order to ensure the efficiency of the system, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to provide that the veracity of the declared entry price of a consignment is to be checked using a flat-rate import value, and to provide the conditions under which the lodging of a security is required.

3. The Commission shall adopt implementing acts establishing rules for the calculation of the flat-rate import value referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 182

Additional import duties

1. The Commission may adopt implementing acts determining the products of the cereals, rice, sugar, fruit and vegetables, processed fruit and vegetables, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs, poultry and bananas sectors, as well as of grape juice and grape must, to which, when imported subject to the rate of duty laid down in the Common Customs Tariff, an additional import duty shall apply in order to prevent or counteract adverse effects on the Union market which may result from those imports, if:

- (a) the imports are made at a price below the level notified by the Union to the WTO (the trigger price); or
- (b) the volume of imports in any year exceeds a certain level (the trigger volume).

The trigger volume shall be based on market access opportunities defined as imports expressed as a percentage of the corresponding domestic consumption during the three previous years.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. Additional import duties shall not be imposed where the imports are unlikely to disturb the Union market, or where the effects would be disproportionate to the intended objective.

3. For the purposes of point (a) of the first subparagraph of paragraph 1, import prices shall be determined on the basis of the c.i.f. import prices of the consignment under consideration. C.i.f. import prices shall be checked against the representative prices for the product on the world market or on the Union import market for that product.

4. The Commission may adopt implementing acts laying down the measures necessary for the application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

*Article 183***Other implementing powers**

The Commission may adopt implementing acts:

- (a) fixing the level of the applied import duty in accordance with the rules set out in an international agreement concluded in accordance with the TFEU, in the Common Customs Tariff and in the implementing acts referred to in Article 180;
- (b) fixing the representative prices and trigger volumes for the purposes of applying additional import duties in the framework of the rules adopted pursuant to Article 182(1).

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

*CHAPTER III***Tariff quota management and special treatment of imports by third countries***Article 184***Tariff quotas**

1. Tariff quotas for the import of agricultural products for release into free circulation in the Union or a part thereof, or tariff quotas for imports of Union agricultural products into third countries, which are to be partly or fully administered by the Union, resulting from international agreements concluded in accordance with the TFEU or any other act adopted in accordance with Article 43(2) or Article 207 TFEU, shall be opened and/or administered by the Commission by means of delegated acts pursuant to Article 186 of this Regulation and implementing acts pursuant to Articles 187 and 188 of this Regulation.

2. Tariff quotas shall be administered in a manner which avoids any discrimination between the operators concerned, by applying one of the following methods or a combination of them or another appropriate method:

- (a) a method based on the chronological order of the submission of applications ("first come, first served" principle);
- (b) a method of distribution in proportion to the quantities requested when the applications were submitted (the "simultaneous examination method");
- (c) a method based on taking traditional trade patterns into account (the "traditional/newcomers method").

3. The method of administration adopted shall:

- (a) for import tariff quotas, give due weight to the supply requirements of the existing and emerging Union production, processing and consumption market in terms

of competitiveness, certainty and continuity of supply and the need to safeguard the equilibrium of that market; and

- (b) for export tariff quotas, permit the full use of the possibilities available under the quota concerned.

*Article 185***Specific tariff quotas**

In order to give effect to tariff quotas for import into Spain of 2 000 000 tonnes of maize and 300 000 tonnes of sorghum and tariff quotas for import into Portugal of 500 000 tonnes of maize, the Commission shall be empowered to adopt delegated acts, in accordance with Article 227, establishing the provisions necessary for carrying out the tariff quota imports and, where appropriate, the public storage of the quantities imported by the paying agencies of the Member States concerned and their disposal on the markets of those Member States.

*Article 186***Delegated powers**

1. In order to ensure fair access for the quantities available and the equal treatment of operators within the tariff quota, the Commission shall be empowered to adopt delegated acts in accordance with Article 227:

- (a) determining the conditions and eligibility requirements that an operator has to fulfil to submit an application within the tariff quota; the provisions concerned may require a minimum experience in trade with third countries and assimilated territories, or in processing activity, expressed as a minimum quantity and period of time in a given market sector; those provisions may include specific rules to suit the needs and practices in force in a certain sector and the uses and needs of the processing industries;
- (b) establishing rules on the transfer of rights between operators and, where necessary, the limitations to such transfer within the management of the tariff quota;
- (c) making participation in the tariff quota subject to the lodging of a security;
- (d) providing, where necessary, for any particular specific characteristics, requirements or restrictions applicable to the tariff quota as set out in the international agreement or other act referred to in Article 184(1).

2. In order to ensure that exported products may benefit from a special treatment on importation into a third country under certain conditions, pursuant to international agreements concluded by the Union in accordance with the TFEU, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 of this Regulation concerning rules requiring the competent authorities of Member States to

issue, on request and after appropriate checks, a document certifying that the conditions are met for products that, if exported, may benefit from a special treatment on importation into a third country if certain conditions are respected.

Article 187

Implementing powers in accordance with the examination procedure

The Commission may adopt implementing acts laying down:

- (a) the annual tariff quotas, if necessary suitably phased over the year, and the method of administration to be used;
- (b) procedures for the application of the specific provisions laid down in the agreement or act adopting the import or export regime, in particular, on:
 - (i) guarantees covering the nature, provenance and origin of the product;
 - (ii) recognition of the document used for verifying the guarantees referred to in point (i);
 - (iii) the presentation of a document issued by the exporting country;
 - (iv) destination and use of the products;
- (c) the period of validity of the licences or of the authorisations;
- (d) the procedures for, and the amount of, the security to be lodged;
- (e) the use of licences, and, where necessary, specific measures relating to, in particular, the conditions under which applications for import shall be submitted and authorisation granted within the tariff quota;
- (f) procedures and technical criteria for the application of Article 185;
- (g) necessary measures concerning the content, form, issue and use of the document referred to in Article 186(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 188

Other implementing powers

1. The Commission shall adopt implementing acts concerning the management of the process guaranteeing that

the quantities available within the tariff quota are not exceeded, in particular by fixing an allocation coefficient to each application when the available quantities are reached, rejecting pending applications and where necessary suspending the submission of applications.

2. The Commission may adopt implementing acts concerning the reallocation of the unused quantities.

3. Implementing acts referred to in this Article shall be adopted without applying the procedure referred to in Article 229(2) or (3).

CHAPTER IV

Special import provisions for certain products

Article 189

Imports of hemp

1. The following products may be imported into the Union only if the following conditions are met:

- (a) raw true hemp falling within CN code 5302 10 00 meeting the conditions laid down in Article 32(6) and in Article 35(3) of Regulation (EU) No 1307/2013
- (b) seeds of varieties of hemp falling within CN code ex 1207 99 20 for sowing accompanied by proof that the tetrahydrocannabinol level of the variety concerned does not exceed that fixed in accordance with Article 32(6) and in Article 35(3) of Regulation (EU) No 1307/2013;
- (c) hemp seeds other than for sowing, falling within CN code 1207 99 91 and imported only by importers authorised by the Member State in order to ensure that such seeds are not intended for sowing.

2. This Article shall apply without prejudice to more restrictive rules adopted by Member States in compliance with the TFEU and the obligations under the WTO Agreement on Agriculture.

Article 190

Imports of hops

1. Products of the hops sector may be imported from third countries only if their quality standards are at least equivalent to those adopted for like products harvested within the Union or made from such products.

2. Products shall be considered to be of the standard referred to in paragraph 1 if they are accompanied by an attestation issued by the authorities of the country of origin and recognised as equivalent to the certificate referred to in Article 77.

In the case of hop powder, hop powder with higher lupulin content, extract of hops and mixed hop products, the attestation may be recognised as being equivalent to the certificate only if the alpha acid content of those products is not lower than that of the hops from which they have been prepared.

3. In order to minimise the administrative burden, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 setting the conditions under which obligations related to an attestation of equivalence and the labelling of packaging are not to apply.

4. The Commission shall adopt implementing acts laying down the measures necessary for the application of this Article, including the rules on the recognition of attestations of equivalence and on the checking of imports of hops. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 191

Derogations for imported products and special security in the wine sector

Derogations from point 5 of Section B or Section C of Part II of Annex VIII for imported products may be adopted in accordance with Article 43(2) TFEU, pursuant to the international obligations of the Union.

In the case of derogations from point 5 of Section B of Part II of Annex VIII, importers shall lodge a security for those products with the designated customs authorities at the time of release into free circulation. The security shall be released on the presentation of proof by the importer, to the satisfaction of the customs authorities of the Member State of release into free circulation, that:

- (a) the products have not benefited from the derogations; or,
- (b) if they have benefited from the derogations, the products have not been vinified, or if they have been vinified, the resulting products have been appropriately labelled.

The Commission may adopt implementing acts laying down rules to ensure the uniform application of this Article, including on the amounts of the security and appropriate labelling. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 192

Imports of raw sugar for refining

1. Until the end of the 2016-2017 marketing year, an exclusive import capacity of 2 500 000 tonnes per marketing year, expressed in white sugar, shall be granted to full-time refiners.

2. The sole sugar beet processing plant at work in 2005 in Portugal shall be deemed to be a full-time refiner.

3. Import licences for sugar for refining shall be issued only to full-time refiners provided that the quantities concerned do not exceed the quantities referred to in paragraph 1. The licences may be transferred only between full-time refiners and their validity shall expire at the end of the marketing year for which they have been issued.

This paragraph shall apply for the first three months of each marketing year.

4. Taking into account the need to ensure that sugar for refining imported in accordance with this Article is refined, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- (a) the use of terms for the operation of the import arrangements referred to in paragraph 1;
- (b) the conditions and eligibility requirements that an operator has to fulfil to lodge an application for an import licence, including the lodging of a security;
- (c) rules on administrative penalties to be charged.

5. The Commission may adopt implementing acts laying down necessary rules concerning the supporting documents to be supplied in connection with the requirements and obligations applicable to importers, and in particular to full-time refiners. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 193

Suspension of import duties in the sugar sector

In order to guarantee the supply necessary for the manufacturing of products referred to in Article 140(2), the Commission may, until the end of the 2016-2017 marketing year, adopt implementing acts suspending import duties in whole or in part for certain quantities in respect of the following products:

- (a) sugar falling within CN code 1701;
- (b) isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER V

Safeguard and inward processing

Article 194

Safeguard measures

1. Safeguard measures against imports into the Union shall be taken by the Commission, subject to paragraph 3 of this Article, in accordance with Council Regulations (EC) No 260/2009 ⁽¹⁾ and (EC) No 625/2009 ⁽²⁾.

2. Save as otherwise provided for in any other act of the European Parliament and the Council and any other act of the Council, safeguard measures against imports into the Union provided for in international agreements concluded in accordance with the TFEU shall be taken by the Commission in accordance with paragraph 3 of this Article.

3. The Commission may adopt implementing acts establishing the measures referred to in paragraphs 1 and 2 of this Article at the request of a Member State or on its own initiative. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Where the Commission receives a request from a Member State, it shall, by means of implementing acts, take a decision thereon within five working days following the receipt of the request. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 229(3).

The measures adopted shall be communicated to the Members States and shall take effect immediately.

4. The Commission may adopt implementing acts revoking or amending Union safeguard measures adopted pursuant to paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 229(3).

Article 195

Suspension of processing and inward processing arrangements

Where the Union market is disturbed or is liable to be disturbed by processing or inward processing arrangements, the Commission may adopt implementing acts, at the request of

⁽¹⁾ Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p. 1).

⁽²⁾ Council Regulation (EC) No 625/2009 of 7 July 2009 on common rules for imports from certain third countries (OJ L 185, 17.7.2009, p. 1).

a Member State or on its own initiative, fully or partially suspending the use of processing or inward processing arrangements for the products of the cereals, rice, sugar, olive oil and table olives, fruit and vegetables, processed fruit and vegetables, wine, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs, poultrymeat and agricultural ethyl alcohol sectors. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Where the Commission receives a request from a Member State, it shall, by means of implementing acts, take a decision thereon within five working days following the receipt of the request. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 229(3).

The measures adopted shall be communicated to the Members States and shall take effect immediately.

CHAPTER VI

Export refunds

Article 196

Scope

1. To the extent necessary to enable exports on the basis of world market quotations or prices when conditions on the internal market are such as those described in Article 219(1) or Article 221 and within the limits resulting from international agreements concluded in accordance with the TFEU, the difference between those quotations or prices and prices in the Union may be covered by export refunds for:

(a) the products of the following sectors to be exported without further processing:

(i) cereals;

(ii) rice;

(iii) sugar, with regard to the products listed in points (b) to (d) and (g) of Part III of Annex I;

(iv) beef and veal;

(v) milk and milk products;

(vi) pigmeat;

(vii) eggs;

(viii) poultrymeat;

(b) the products listed in points (i) to (iii), (v) and (vii) of point (a) of this paragraph to be exported in the form of processed goods in accordance with Council Regulation (EC) No 1216/2009 ⁽¹⁾, and in the form of the products containing sugar listed in point (b) of Part X of Annex I to this Regulation.

2. Export refunds on products exported in the form of processed goods shall not be higher than those applicable to the same products exported without further processing.

3. Without prejudice to the application of Article 219(1) and Article 221, the refund available for the products referred to in paragraph 1 of this Article shall be EUR 0.

Article 197

Export refund distribution

The method of allocation for quantities which may be exported with an export refund shall be the one that:

- (a) is most suited to the nature of the product and the situation on the relevant market, allowing the most efficient use of the resources available, taking into account the efficiency and structure of Union exports and their impact on the market balance without creating discrimination between the operators concerned, and in particular between large and small operators;
- (b) is least cumbersome administratively for operators, taking into account the administrative requirements.

Article 198

Export refund fixation

1. The same export refunds shall apply to the same products in the whole Union. They may vary according to destination, especially where the world market situation, the specific requirements of certain markets, or obligations resulting from international agreements concluded in accordance with the TFEU make this necessary.

2. Measures on the fixing of refunds shall be taken by the Council in accordance with Article 43(3) TFEU.

Article 199

Granting of export refund

1. Refunds on products listed in point (a) of Article 196(1) exported as such without further processing shall only be granted on application and on presentation of an export licence.

⁽¹⁾ Council Regulation (EC) No 1216/2009 of 30 November 2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products (OJ L 328, 15.12.2009, p. 10).

2. The refund applicable to products listed in point (a) of Article 196(1) shall be the refund applicable on the day of application for the licence or the refund resulting from the tendering procedure concerned and, in the case of a differentiated refund, the refund applicable on the same day:

- (a) for the destination indicated on the licence; or
- (b) for the actual destination if it differs from the destination indicated on the licence, in which case the amount applicable shall not exceed the amount applicable to the destination indicated on the licence.

3. The refund shall be paid upon submission of proof that:

- (a) the products have left the customs territory of the Union in accordance with the export procedure referred to in Article 161 of the Customs Code;
- (b) in the case of a differentiated refund, the products have been imported into the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to point (b) of paragraph 2.

Article 200

Export refunds for live animals in the beef and veal sector

With regard to products of the beef and veal sector, the granting and the payment of the refund for exports of live animals shall be subject to compliance with the animal welfare requirements established in Union law, and in particular with those for the protection of animals during transport.

Article 201

Export limits

The volume commitments resulting from the international agreements concluded in accordance with the TFEU shall be respected on the basis of export licences issued for the reference periods applying to the products concerned.

With regard to compliance with the obligations under the WTO Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

Article 202

Delegated powers

1. In order to ensure the proper functioning of the export refund system, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the requirement to lodge a security guaranteeing the fulfilment of the operators' obligations.

2. In order to minimise the administrative burden for operators and authorities, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 setting thresholds below which the obligation to issue or present an export licence may not be required, designating destinations or operations where an exemption for the obligation to present an export licence may be justified and permitting export licences to be granted ex-post in justified situations.

3. In order to address practical situations justifying the full or partial eligibility for export refunds and to help operators bridge the period between the application and the final payment of the export refund, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on:

- (a) another date for the refund;
- (b) advance payment of export refunds, including the conditions for the lodging and release of a security;
- (c) additional proof where doubts exist as to the real destination of products, and the opportunity for re-importation into the customs territory of the Union;
- (d) destinations treated as exports from the Union, and the inclusion of destinations within the customs territory of the Union eligible for export refunds.

4. In order to ensure the equal access of exporters of products listed in Annex I to the Treaties and of products processed therefrom to export refunds, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on the application of Article 199(1) and (2) to products referred to in point (b) of Article 196(1).

5. In order to ensure that products benefiting from export refunds are exported from the customs territory of the Union, and to avoid their return to that territory and to minimise the administrative burden for operators in generating and submitting proof that refund products reached a country of destination for differentiated refunds, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning rules on:

- (a) the time limit by which the exit from the customs territory of the Union must be finalised, including the time for temporary re-entry;

- (b) the processing that products benefiting from export refunds may undergo during that period;
- (c) the proof of having reached a destination in order to be eligible for differentiated refunds;
- (d) the refund thresholds and conditions under which exporters may be exempted from such proof;
- (e) conditions for approval of proof, provided by independent third parties, of reaching a destination where differentiated refunds apply.

6. In order to encourage exporters to respect animal welfare conditions, and in order to enable the competent authorities to verify correct expenditure of export refunds where that is conditional on respect for animal welfare requirements, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on the respect of animal welfare requirements outside the customs territory of the Union, including the use of independent third parties.

7. In order to take into account the specific characteristics of the different sectors, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing specific requirements and conditions for operators and for the products eligible for an export refund, and coefficients for the purposes of calculating export refunds taking into account the ageing process of certain spirit drinks obtained from cereals.

Article 203

Implementing powers in accordance with the examination procedure

The Commission shall adopt implementing acts laying down the measures necessary for the application of this Chapter, in particular on:

- (a) the redistribution of exportable quantities which have not been allocated or utilised;
- (b) the method for recalculation of the payment of the export refund when the product code or destination mentioned in a licence is not in conformity with the actual product or destination;
- (c) products referred to in point (b) of Article 196(1);
- (d) the procedures for, and the amount of, the security to be lodged;

(e) the application of measures adopted pursuant to Article 202(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 204

Other implementing powers

The Commission may adopt implementing acts:

- (a) laying down appropriate measures to prevent abuse of the flexibility provided for in Article 199(2), in particular concerning the procedure for submitting applications;
- (b) laying down the measures necessary to respect the volume commitments referred to in Article 201, including ceasing or limiting the issue of export licences when such commitments are or can be exceeded;
- (c) fixing coefficients which apply to the export refunds in accordance with the rules adopted pursuant to Article 202(7).

Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

CHAPTER VII

Outward processing

Article 205

Suspension of outward processing arrangements

Where the Union market is disturbed or could be disturbed by outward processing arrangements, the Commission may adopt implementing acts, on a request from a Member State or on its own initiative, fully or partially suspending the use of outward processing arrangements for the products of the cereals, rice, fruit and vegetables, processed fruit and vegetables, wine, beef and veal, pigmeat, sheepmeat and goatmeat and poultrymeat sectors. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Where the Commission receives a request from a Member State, it shall, by means of implementing acts, take a decision thereon within five working days following receipt of the request. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 229(3).

The measures adopted shall be communicated to the Members States and shall take effect immediately.

PART IV

COMPETITION RULES

CHAPTER I

Rules applying to undertakings

Article 206

Commission guidelines on the application of competition rules to agriculture

Save as otherwise provided in this Regulation, and in accordance with Article 42 TFEU, Articles 101 to 106 TFEU and the implementing provisions thereto shall, subject to Articles 207 to 210 of this Regulation, apply to all agreements, decisions and practices referred to in Article 101(1) and Article 102 TFEU which relate to the production of, or trade in, agricultural products.

In order to ensure the functioning of the internal market and the uniform application of Union competition rules, the Commission and the competition authorities of the Member States shall apply the Union competition rules in close cooperation.

In addition, the Commission shall, where appropriate, publish guidelines to assist the national competition authorities, as well as undertakings.

Article 207

Relevant market

The definition of the relevant market is a tool to identify and define the boundaries of competition between undertakings, and shall be founded on two cumulative elements:

- (a) the relevant product market: for the purposes of this Chapter, "product market" means the market comprising all those products which are regarded as interchangeable or substitutable by the consumer by reason of the products' characteristics, their prices and their intended use;
- (b) the relevant geographic market: for the purposes of this Chapter, "geographic market" means the market comprising the area in which the undertakings concerned are involved in the supply of the relevant products, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas, particularly because the conditions of competition are appreciably different in those areas.

*Article 208***Dominant position**

For the purposes of this Chapter, "dominant position" means a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained in the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of consumers.

*Article 209***Exceptions for the objectives of the CAP and farmers and their associations**

1. Article 101(1) TFEU shall not apply to the agreements, decisions and practices referred to in Article 206 of this Regulation necessary for the attainment of the objectives set out in Article 39 TFEU.

Article 101(1) TFEU shall not apply to agreements, decisions and concerted practices of farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 152 of this Regulation, or associations of producer organisations recognised under Article 156 of this Regulation, which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, unless the objectives of Article 39 TFEU are jeopardised.

This paragraph shall not apply to agreements, decisions and concerted practices which entail an obligation to charge an identical price or by which competition is excluded.

2. Agreements, decisions and concerted practices which fulfil the conditions referred to in paragraph 1 of this Article shall not be prohibited, no prior decision to that effect being required.

In any national or Union proceedings for the application of Article 101 TFEU, the burden of proving an infringement of Article 101(1) TFEU shall rest on the party or the authority alleging the infringement. The party claiming the benefit of the exemptions provided in paragraph 1 of this Article shall bear the burden of proving that the conditions of that paragraph are fulfilled.

*Article 210***Agreements and concerted practices of recognised interbranch organisations**

1. Article 101(1) TFEU shall not apply to agreements, decisions and concerted practices of interbranch organisations

recognised under Article 157 of this Regulation with the object of carrying out the activities listed in point (c) of Article 157(1) and, for the milk and milk products sector, in point (c) of Article 157(3) of this Regulation, and, for the olive oil and table olives and tobacco sectors, in Article 162 of this Regulation.

2. Paragraph 1 shall apply provided that:

- (a) the agreements, decisions and concerted practices referred to therein have been notified to the Commission; and
- (b) within two months of receipt of all the details required the Commission has not found that those agreements, decisions or concerted practices are incompatible with Union rules.

Where the Commission finds that the agreements, decisions or concerted practices referred to in paragraph 1 are incompatible with Union rules, it shall set out its finding without applying the procedure referred to in Article 229(2) or (3).

3. The agreements, decisions and concerted practices referred to in paragraph 1 may not be put into effect before the lapse of the two-month period referred to in point (b) of the first subparagraph of paragraph 2.

4. Agreements, decisions and concerted practices shall in any case be declared incompatible with Union rules if they:

- (a) may lead to the partitioning of markets within the Union in any form;
- (b) may affect the sound operation of the market organisation;
- (c) may create distortions of competition which are not essential to achieving the objectives of the CAP pursued by the interbranch organisation activity;
- (d) entail the fixing of prices or the fixing of quotas;
- (e) may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.

5. If, following the expiry of the two-month period referred to in point (b) of the first subparagraph of paragraph 2, the Commission finds that the conditions for applying paragraph 1 have not been met, it shall, without applying the procedure referred to in Article 229(2) or (3), take a decision declaring that Article 101(1) TFEU applies to the agreement, decision or concerted practice in question.

That Commission decision shall not apply earlier than the date of its notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or abused the exemption provided for in paragraph 1.

6. In the case of multiannual agreements, the notification for the first year shall be valid for the subsequent years of the agreement. However, in that event, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.

7. The Commission may adopt implementing acts laying down the measures necessary for the uniform application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER II

State aid rules

Article 211

Application of Articles 107 to 109 TFEU

1. Articles 107 to 109 TFEU shall apply to the production of, and trade in, agricultural products.

2. By way of derogation from paragraph 1, Articles 107 to 109 TFEU shall not apply to payments made by Member States pursuant to and in conformity with either of the following:

- (a) the measures provided for in this Regulation which are partly or wholly financed by the Union;
- (b) Articles 213 to 218 of this Regulation.

Article 212

National payments related to wine support programmes

By way of derogation from Article 44(3), Member States may grant national payments in accordance with the Union rules on State aid for the measures referred to in Articles 45, 49 and 50.

The maximum aid rate as laid down in the relevant Union rules on State aid shall apply to the global public financing, including both Union and national funds.

Article 213

National payments for reindeer in Finland and Sweden

Subject to an authorisation by the Commission adopted without applying the procedure referred to in Article 229(2) or (3), national payments for the production and marketing of reindeer and reindeer products (CN codes ex 0208 and ex 0210) may be made by Finland and Sweden insofar as they do not entail any increase in traditional levels of production.

Article 214

National payments for the sugar sector in Finland

Finland may make national payments of up to EUR 350 per hectare per marketing year to sugar beet growers.

Article 215

National payments for apiculture

Member States may make national payments for the protection of apiaries disadvantaged by structural or natural conditions or under economic development programmes, except for those allocated for production or trade.

Article 216

National payments for distillation of wine in cases of crisis

1. Member States may make national payments to wine producers for the voluntary or mandatory distillation of wine in justified cases of crisis.

Those payments shall be proportionate and shall allow that crisis to be addressed.

The overall amount of payments available in a Member State in any given year for such payments shall not exceed 15 % of the globally available funds per Member State for that year as laid down in Annex VI.

2. Member States wishing to make use of the national payments referred to in paragraph 1 shall submit a duly substantiated notification to the Commission. The Commission shall decide, without applying the procedure referred to in Article 229(2) or (3), whether the measure is approved and whether the payments may be made.

3. The alcohol resulting from distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid any distortion of competition.

4. The Commission may adopt implementing acts laying down the measures necessary for the application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 217

National payments for distribution of products to children

Member States may, in addition to Union aid provided for in Articles 23 and 26, make national payments for supplying the products to children in educational establishments or for the related costs referred to in Article 23(1).

Member States may finance those payments by means of a levy on the sector concerned or by any other contribution from the private sector.

Member States may, in addition to Union aid provided for in Article 23, make national payments for financing accompanying measures necessary to make the Union scheme for the supply of fruit and vegetable, processed fruit and vegetable and banana products effective, as referred to in Article 23(2).

Article 218

National payments for nuts

1. Member States may make national payments, up to a maximum of EUR 120,75 per hectare per year, to farmers producing the following products:

- (a) almonds falling within CN codes 0802 11 and 0802 12;
- (b) hazelnuts or filberts falling within CN codes 0802 21 and 0802 22;
- (c) walnuts falling within CN codes 0802 31 00 and 0802 32 00;
- (d) pistachios falling within CN codes 0802 51 00 and 0802 52 00;
- (e) locust beans falling within CN code 1212 92 00.

2. The national payments referred to in paragraph 1 may be paid only for a maximum area of:

Member State	Maximum area (ha)
Belgium	100
Bulgaria	11 984
Germany	1 500
Greece	41 100
Spain	568 200
France	17 300
Italy	130 100
Cyprus	5 100
Luxembourg	100
Hungary	2 900
Netherlands	100
Poland	4 200
Portugal	41 300

Member State	Maximum area (ha)
Romania	1 645
Slovenia	300
Slovakia	3 100
United Kingdom	100

3. Member States may make the granting of national payments referred to in paragraph 1 conditional on farmers being members of a producer organisation recognised under Article 152.

PART V

GENERAL PROVISIONS

CHAPTER I

Exceptional measures

Section 1

Market disturbance

Article 219

Measures against market disturbance

1. In order to react efficiently and effectively against threats of market disturbance caused by significant price rises or falls on internal or external markets or other events and circumstances significantly disturbing or threatening to disturb the market, where that situation, or its effects on the market, is likely to continue or deteriorate, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to take the measures necessary to address that market situation, while respecting any obligations resulting from international agreements concluded in accordance with the TFEU and provided that any other measures available under this Regulation appear to be insufficient.

Where, in the cases of threats of market disturbances referred to in the first subparagraph of this paragraph, imperative grounds of urgency so require, the procedure provided for in Article 228 shall apply to delegated acts adopted pursuant to the first subparagraph of this paragraph.

Those imperative grounds of urgency may include the need to take immediate action to address or prevent market disturbance, where threats of market disturbance occur so swiftly or unexpectedly that immediate action is necessary to efficiently and effectively address the situation, or where action would prevent such threats of market disturbance from materialising, continuing or turning into a more severe or prolonged disturbance, or where delaying immediate action would threaten to cause or aggravate the disturbance or would increase the extent of the measures which would later be necessary to address the threat or disturbance or would be detrimental to production or market conditions.

Such measures may to the extent and for the time necessary to address the market disturbance or threat thereof extend or modify the scope, duration or other aspects of other measures provided for under this Regulation, or provide for export refunds, or suspend import duties in whole or in part including for certain quantities or periods as necessary.

2. The measures referred to in paragraph 1 shall not apply to products listed in Section 2 of Part XXIV of Annex I.

However, the Commission may, by means of delegated acts adopted in accordance with the urgency procedure referred to in Article 228, decide that the measures referred to in paragraph 1 shall apply to one or more of the products listed in Section 2 of Part XXIV of Annex I.

3. The Commission may adopt implementing acts laying down necessary procedural rules and technical criteria for the application of measures referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Section 2

Market support measures related to animal diseases and loss of consumer confidence due to public, animal or plant health risks

Article 220

Measures concerning animal diseases and loss of consumer confidence due to public, animal or plant health risks

1. The Commission may adopt implementing acts taking exceptional support measures for the affected market in order to take account of:

- (a) restrictions on intra-Union and third-country trade which may result from the application of measures for combating the spread of diseases in animals; and
- (b) serious market disturbances directly attributed to a loss in consumer confidence due to public, animal or plant health and disease risks.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. The measures provided for in paragraph 1 shall apply to any of the following sectors:

- (a) beef and veal;
- (b) milk and milk products;
- (c) pigmeat;

(d) sheepmeat and goatmeat;

(e) eggs;

(f) poultrymeat.

The measures provided for in point (b) of the first subparagraph of paragraph 1 related to a loss in consumer confidence due to public or plant health risks shall also apply to all other agricultural products except those listed in Section 2 of Part XXIV of Annex I.

The Commission shall be empowered to adopt delegated acts in accordance with the urgency procedure referred to in Article 228, extending the list of products in the first two subparagraphs of this paragraph.

3. The measures provided for in paragraph 1 shall be taken at the request of the Member State concerned.

4. The measures provided for in point (a) of the first subparagraph of paragraph 1 may be taken only if the Member State concerned has taken health and veterinary measures quickly to stamp out the disease, and only to the extent and for the duration strictly necessary to support the market concerned.

5. The Union shall provide part-financing equivalent to 50 % of the expenditure borne by Member States for the measures provided for in paragraph 1.

However, with regard to the beef and veal, milk and milk products, pigmeat and sheepmeat and goatmeat sectors, the Union shall provide part-financing equivalent to 60 % of such expenditure when combating foot-and-mouth disease.

6. Member States shall ensure that, where producers contribute to the expenditure borne by Member States, this does not result in a distortion of competition between producers in different Member States.

Section 3

Specific problems

Article 221

Measures to resolve specific problems

1. The Commission shall adopt implementing acts taking necessary and justifiable emergency measures to resolve specific problems. Those measures may derogate from the provisions of this Regulation only to an extent that is strictly necessary and for a period that is strictly necessary. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. To resolve specific problems, and on duly justified imperative grounds of urgency, relating to situations likely to cause a rapid deterioration of production and market conditions which could be difficult to address if the adoption of measures were delayed, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 229(3).

3. The Commission shall adopt measures under paragraph 1 or 2 only if it is not possible to adopt the required emergency measures in accordance with Article 219 or 220.

4. Measures adopted under paragraph 1 or 2 shall remain in force for a period not exceeding twelve months. If after this period the specific problems that led to the adoption of those measures persist, the Commission may, in order to establish a permanent solution, adopt delegated acts in accordance with Article 227 regarding the matter or present appropriate legislative proposals.

5. The Commission shall inform the European Parliament and the Council of any measure adopted under paragraph 1 or 2 within two working days of its adoption.

Section 4

Agreements and decisions during periods of severe imbalance in markets

Article 222

Application of Article 101(1) TFEU

1. During periods of severe imbalance in markets, the Commission may adopt implementing acts to the effect that Article 101(1) TFEU is not to apply to agreements and decisions of recognised producer organisations, their associations and recognised interbranch organisations in any of the sectors referred to in Article 1(2) of this Regulation, provided that such agreements and decisions do not undermine the proper functioning of the internal market, strictly aim to stabilise the sector concerned and fall under one or more of the following categories:

- (a) market withdrawal or free distribution of their products;
- (b) transformation and processing;
- (c) storage by private operators;
- (d) joint promotion measures;
- (e) agreements on quality requirements;

(f) joint purchasing of inputs necessary to combat the spread of pests and diseases in animals and plants in the Union or of inputs necessary to address the effects of natural disasters in the Union;

(g) temporary planning of production taking into account the specific nature of the production cycle.

The Commission shall specify in implementing acts the substantive and geographic scope of this derogation and, subject to paragraph 3, the period for which the derogation applies.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. Paragraph 1 shall apply only if the Commission has already adopted one of the measures referred to in this Chapter, if products have been bought in under public intervention or if aid for private storage referred to in Chapter I of Title I of Part II has been granted.

3. The agreements and decisions referred to in paragraph 1 shall only be valid for a period of up to six months.

However, the Commission may adopt implementing acts authorising such agreements and decisions for a further period of up to six-months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

CHAPTER II

Communications and reporting

Article 223

Communication requirements

1. For the purposes of applying this Regulation, monitoring, analysing and managing the market in agricultural products, ensuring market transparency, the proper functioning of CAP measures, checking, controlling, monitoring, evaluating and auditing CAP measures, and complying with the requirements laid down in international agreements concluded in accordance with the TFEU, including notification requirements under those agreements, the Commission may, in accordance with the procedure referred to in paragraph 2, adopt the necessary measures regarding communications to be made by undertakings, Member States and third countries. In so doing, it shall take into account the data needs and synergies between potential data sources.

The information obtained may be transmitted or made available to international organisations, the competent authorities of third countries and may be made public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets, including prices.

2. In order to ensure the integrity of information systems and the authenticity and legibility of documents and associated data transmitted, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- (a) the nature and type of information to be notified;
- (b) the categories of data to be processed, the maximum retention periods and the purpose of the processing, in particular in the event of the publication of such data and their transfer to third countries;
- (c) the access rights to the information or information systems made available;
- (d) the conditions of publication of the information.

3. The Commission shall adopt implementing acts laying down the measures necessary for the application of this Article, including:

- (a) the methods of notification;
- (b) rules on the information to be notified;
- (c) arrangements for the management of the information to be notified, as well as on the content, form, timing, frequency and deadlines of the notifications;
- (d) the arrangements for transmitting or making information and documents available to the Member States, international organisations, the competent authorities in third countries, or the public, subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 224

Processing and protection of personal data

1. The Member States and the Commission shall collect personal data for the purposes set out in Article 223(1) and shall not process those data in a way incompatible with those purposes.

2. Where personal data are processed for monitoring and evaluation purposes as referred to in Article 223(1), they shall be made anonymous and shall be processed in aggregated form only.

3. Personal data shall be processed in accordance with Directive 95/46/EC and Regulation (EC) No 45/2001. In particular, such data shall not be stored in a form which permits identification of data subjects for longer than is necessary for the purposes for which they were collected or

for which they are further processed, taking into account the minimum retention periods laid down in the applicable national and Union law.

4. Member States shall inform the data subjects that their personal data may be processed by national and Union bodies in accordance with paragraph 1 and that in this respect they enjoy the rights set out in, respectively, Directive 95/46/EC and Regulation (EC) No 45/2001.

Article 225

Reporting obligation of the Commission

The Commission shall present a report to the European Parliament and to the Council:

- (a) every three years and for the first time by 21 December 2016 the implementation of the measures concerning the apiculture sector as set out in Articles 55, 56 and 57, including on the latest developments on beehive identification systems;
- (b) by 30 June 2014 and also by 31 December 2018, on the development of the market situation in the milk and milk products sector, and in particular on the operation of Articles 148 to 151, Article 152(3) and Article 157(3), assessing in particular the effects on milk producers and milk production in disadvantaged regions in connection with the general objective of maintaining production in such regions, and covering potential incentives to encourage farmers to enter into joint production agreements, together with any appropriate proposals;
- (c) by 31 December 2014, on the possibility of extending the scope of the school schemes to include olive oil and table olives;
- (d) by 31 December 2017, on the application of the competition rules to the agricultural sector in all Member States, in particular on the operation of Articles 209 and 210, and of Articles 169, 170 and 171 in the sectors concerned.

CHAPTER III

Reserve for crises in the agricultural sector

Article 226

Use of the Reserve

Funds transferred from the Reserve for crises in the agricultural sector under the conditions and procedure referred to in Article 25 of Regulation (EU) No 1306/2013 and paragraph 22 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, cooperation in budgetary matters and on sound financial management shall be made available for the measures to which this Regulation applies for the year or years for which the additional support is required and which are implemented in circumstances that go beyond normal market developments.

In particular, funds shall be transferred for any expenditure under:

- (a) Articles 8 to 21;
- (b) Articles 196 to 204; and
- (c) Articles 219, 220 and 221 of this Regulation.

PART VI

DELEGATIONS OF POWER, IMPLEMENTING PROVISIONS, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I

Delegations of power and implementing provisions

Article 227

Exercise of the delegation

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in this Regulation shall be conferred on the Commission for a period of seven years from 20 December 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in this Regulation may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to this Regulation shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 228

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is

expressed in accordance with paragraph 2. The notification of a delegated act adopted under this Article to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act adopted under this Article in accordance with the procedure referred to in Article 227(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

Article 229

Committee procedure

1. The Commission shall be assisted by a committee called the Committee for the Common Organisation of the Agricultural Markets. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

In the case of acts referred to in Article 80(5), points (c) and (d) of Article 91, Article 97(4), Article 99, Article 106 and Article 107(3), where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

CHAPTER II

Transitional and final provisions

Article 230

Repeals

1. Regulation (EC) No 1234/2007 is repealed.

However, the following provisions of Regulation (EC) No 1234/2007 shall continue to apply:

(a) as regards the system of milk production limitation: Section III of Chapter III of Title I of Part II, Article 55, Article 85 and Annexes IX and X, until 31 March 2015;

(b) as regards the wine sector:

(i) Articles 85a to 85e as regards areas referred to in Article 85a(2) which have not yet been grubbed up and as regards areas referred to in Article 85b(1) which have not been regularised, until such areas are grubbed up or regularised, and Article 188a(1) and (2);

(ii) the transitional planting right regime set out in Subsection II of Section IVa of Chapter III of Title I of Part II until 31 December 2015;

(iii) Article 118m(5) until clearance of the stocks of wines with the denomination "Mlado vino portugizac" existing on 1 July 2013;

(iv) Article 118s(5) until 30 June 2017;

(c) Article 113a(4), Articles 114, 115 and 116, Article 117(1) to (4) and point (e)(iv) of Article 121, as well as points I(2) and (3) and III(1) of Part B and Part C of Annex XIV, and points 1, 3, 5 and 6 of Part II and point 2 of Part IV of Annex XV for the purpose of applying those Articles, until the date of application of the corresponding marketing rules to be established pursuant to the delegated acts provided for in Article 75(2), Article 76(4), Article 78(3) and (4), Article 79(1), Article 80(4), Article 83(4), Article 86, Article 87(2), Article 88(3) and Article 89 of this Regulation;

(d) Article 133a(1) and Article 140a until 30 September 2014;

(e) the first and second subparagraphs of Article 182(3) until the end of the 2013/2014 marketing year for sugar on 30 September 2014;

(f) Article 182(4) until 31 December 2017;

(g) Article 182(7) until 31 March 2014;

(h) Point 3(b) of Part III of Annex XV until 31 December 2015;

(i) Annex XX until date of entry into force of legislative act replacing Regulation (EC) No 1216/2009 and Council Regulation (EC) No 614/2009 ⁽¹⁾.

2. References to Regulation (EC) No 1234/2007 shall be construed as references to this Regulation and to Regulation (EU) No 1306/2013 and be read in accordance with the correlation table set out in Annex XIV to this Regulation.

3. Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1601/96 and (EC) No 1037/2001 are repealed.

Article 231

Transitional rules

1. In order to ensure the smooth transition from the arrangements provided for in Regulation (EC) No 1234/2007 to those laid down in this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 concerning measures necessary to protect the acquired rights and legitimate expectations of undertakings.

2. All multiannual programmes adopted before 1 January 2014 shall continue to be governed by the concerned provisions of Regulation (EC) No 1234/2007 following the entry into force of this Regulation until those programmes come to an end.

Article 232

Entry into force and application

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

It shall apply from 1 January 2014.

However:

(a) Article 181 shall apply from 1 October 2014;

(b) point II(3) of Part VII of Annex VII shall apply from 1 January 2016;

2. Articles 148 to 151, Article 152(3), Article 156(2), Article 157(3), Articles 161 and 163, Article 173(2) and Article 174(2) shall apply until 30 June 2020.

3. Articles 127 to 144 and Articles 192 and 193 shall apply until the end of the 2016/2017 marketing year for sugar on 30 September 2017.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. JUKNA

⁽¹⁾ Council Regulation (EC) No 614/2009 of 7 July 2009 on the common system of trade for ovalbumin and lactalbumin (OJ L 181, 14.7.2009, p. 8).

ANNEX I

LIST OF PRODUCTS REFERRED TO IN ARTICLE 1(2)

PART I

Cereals

The cereals sector shall cover the products listed in the following table:

CN code	Description
(a) 0709 99 60	Sweetcorn, fresh or chilled
0712 90 19	Dried sweetcorn, whole, cut, sliced, broken or in powder, but not further prepared, other than hybrid for sowing
1001 91 20	Common wheat and meslin seed
ex 1001 99 00	Spelt, common wheat and meslin other than for sowing
1002	Rye
1003	Barley
1004	Oats
1005 10 90	Maize (corn) seed other than hybrid
1005 90 00	Maize other than seed
1007 10 90,	Grain sorghum, other than hybrids for sowing
1007 90 00	
1008	Buckwheat, millet and canary seed; other cereals
(b) 1001 11 00,	Durum wheat
1001 19 00	
(c) 1101 00	Wheat or meslin flour
1102 90 70	Rye flour
1103 11	Groats and meal of wheat
1107	Malt, whether or not roasted
(d) 0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith
ex 1102	Cereal flours other than of wheat or meslin:
1102 20	–Maize (corn) flour
1102 90	–Other:
1102 90 10	-- Barley flour
1102 90 30	-- Oat flour
1102 90 90	-- Other
ex 1103	Cereal groats, meal and pellets with the exception of groats and meal of wheat (subheading 1103 11), groats and meal of rice (subheading 1103 19 50) and pellets of rice (subheading 1103 20 50)
ex 1104	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 1006 and flaked rice of subheading 1104 19 91; germ of cereals, whole, rolled, flaked or ground
1106 20	Flour, meal and powder of sago or of roots or tubers of heading 0714

CN code	Description
ex 1108	Starches; inulin:
	– Starches:
1108 11 00	-- Wheat starch
1108 12 00	-- Maize (corn) starch
1108 13 00	-- Potato starch
1108 14 00	-- Manioc (cassava) starch
ex 1108 19	-- Other starches:
1108 19 90	--- Other
1109 00 00	Wheat gluten, whether or not dried
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:
ex 1702 30	– Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose:
	-- Other:
ex 1702 30 50	--- In the form of white crystalline powder, whether or not agglomerated, containing in the dry state less than 99 % by weight of glucose
ex 1702 30 90	--- Other, containing in the dry state less than 99 % by weight of glucose
ex 1702 40	– Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose, excluding invert sugar:
1702 40 90	-- Other
ex 1702 90	– Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 % by weight of fructose:
1702 90 50	-- Maltodextrine and maltodextrine syrup
	-- Caramel:
	--- Other:
1702 90 75	---- In the form of powder, whether or not agglomerated
1702 90 79	---- Other
2106	Food preparations not elsewhere specified or included:
ex 2106 90	– Other
	-- Flavoured or coloured sugar syrups:
	--- Other
2106 90 55	---- Glucose syrup and maltodextrine syrup
ex 2302	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals
ex 2303	Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets:
2303 10	– Residues of starch manufacture and similar residues
2303 30 00	– Brewing or distilling dregs and waste
ex 2306	Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetables fats or oils, other than those of headings 2304 and 2305:
	– Other
2306 90 05	-- Of maize (corn) germ

CN code	Description
ex 2308 00	Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included:
2308 00 40	– Acorns and horse-chestnuts; pomace or marc of fruit, other than grapes
2309	Preparations of a kind used in animal feeding:
ex 2309 10	– Dog or cat food, put up for retail sale:
2309 10 11	– – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup of
2309 10 13	subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or
2309 10 31	milk products
2309 10 33	
2309 10 51	
2309 10 53	
ex 2309 90	– Other:
2309 90 20	– – Products referred to in additional note 5 to chapter 23 of the Combined Nomenclature
	– – Other, including premixes:
2309 90 31	– – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup of
2309 90 33	subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or
2309 90 41	milk products:
2309 90 43	
2309 90 51	
2309 90 53	

(¹) For the purposes of this subheading 'milk products' means products falling within headings 0401 to 0406 as well as subheadings 1702 11 00, 1702 19 00 and 2106 90 51.

PART II

Rice

The rice sector shall cover the products listed in the following table:

CN code	Description
(a) 1006 10 21 to 1006 10 98	Rice in the husk (paddy or rough), other than for sowing
1006 20	Husked (brown) rice
1006 30	Semi-milled or wholly milled rice, whether or not polished or glazed
(b) 1006 40 00	Broken rice
(c) 1102 90 50	Rice flour
1103 19 50	Rice groats and meal
1103 20 50	Pellets of rice
1104 19 91	Flaked grains of rice
ex 1104 19 99	Rolled grains of rice
1108 19 10	Rice starch

PART III

Sugar

The sugar sector shall cover the products listed in the following table:

CN code	Description
(a) 1212 91	Sugar beet
1212 93 00	Sugar cane
(b) 1701	Cane or beet sugar and chemically pure sucrose, in solid form
(c) 1702 20	Maple sugar and maple syrup
1702 60 95 and 1702 90 95	Other sugars in solid form and sugar syrups, not containing added flavouring or colouring matter, but not including lactose, glucose, maltodextrine and isoglucose
1702 90 71	Caramel containing 50 % or more by weight of sucrose in the dry matter
2106 90 59	Flavoured or coloured sugar syrups, other than isoglucose, lactose, glucose and maltodextrine syrups
(d) 1702 30 10	Isoglucose
1702 40 10	
1702 60 10	
1702 90 30	
(e) 1702 60 80	Inulin syrup
1702 90 80	
(f) 1703	Molasses resulting from the extraction or refining of sugar
(g) 2106 90 30	Flavoured or coloured isoglucose syrups
(h) 2303 20	Beet pulp, bagasse and other waste of sugar manufacture

PART IV

Dried fodder

The dried fodder sector shall cover the products listed in the following table:

CN code	Description
(a) ex 1214 10 00	- Meal and pellets of lucerne artificially heat-dried
	- Meal and pellets of lucerne otherwise dried and ground
ex 1214 90 90	- Lucerne, sainfoin, clover, lupins, vetches and similar fodder products, artificially heat-dried, except hay and fodder kale and products containing hay
	- Lucerne, sainfoin, clover, lupins, vetches, honey lotus, chickling pea and birdsfoot, otherwise dried and ground
(b) ex 2309 90 96	- Protein concentrates obtained from lucerne juice and grass juice
	- Dehydrated products obtained exclusively from solid residues and juice resulting from preparation of the abovementioned concentrates

PART V

Seeds

The seeds sector shall cover the products listed in the following table

CN code	Description
0712 90 11	Sweetcorn hybrids: – for sowing
0713 10 10	Peas (<i>Pisum sativum</i>): – for sowing
ex 0713 20 00	Chickpeas (garbanzos): – for sowing
ex 0713 31 00	Beans of the species <i>Vigna mungo</i> (L.) Hepper or <i>Vigna radiata</i> (L.) Wilczek: – for sowing
ex 0713 32 00	Small red (Adzuki) beans (<i>Phaseolus</i> or <i>Vigna angularis</i>): – for sowing
0713 33 10	Kidney beans, including white pea beans (<i>Phaseolus vulgaris</i>): – for sowing
ex 0713 34 00	Bambara beans (<i>Vigna subterranea</i> or <i>Voandzeia subterranea</i>):
ex 0713 35 00	– for sowing
ex 0713 39 00	Cow peas (<i>Vigna unguiculata</i>): – for sowing
	Other: – for sowing
ex 0713 40 00	Lentils: – for sowing
ex 0713 50 00	Broad beans (<i>Vicia faba</i> var. <i>major</i>) and horse beans (<i>Vicia faba</i> var. <i>equina</i> , <i>Vicia faba</i> var. <i>minor</i>):
ex 0713 60 00	– for sowing
	Pigeon peas (<i>Cajanus cajan</i>): – for sowing
ex 0713 90 00	Other dried leguminous vegetables: – for sowing
1001 91 10	Spelt: – seed
1001 91 90	Other – seed
ex 1005 10	Hybrid maize (corn) seed
1006 10 10	Rice in the husk (paddy or rough): – for sowing
1007 10 10	Grain sorghum hybrids: – seed

CN code	Description
1201 10 00	Soya beans, whether or not broken: – seed
1202 30 00	Groundnuts, not roasted or otherwise cooked, whether or not shelled or broken: – seed
1204 00 10	Linseed, whether or not broken: – for sowing
1205 10 10 and ex 1205 90 00	Rape or colza seeds, whether or not broken: – for sowing
1206 00 10	Sunflower seeds, whether or not broken: – for sowing
ex 1207	Other oil seeds and oleaginous fruits, whether or not broken: – for sowing
1209	Seeds, fruit and spores, of a kind used for sowing

PART VI

Hops

The hops sector shall cover the products listed in the following table

CN code	Description
1210	Hop cones, fresh or dried, whether or not ground, powdered or in the form of pellets; lupulin
1302 13 00	Vegetable saps and extracts of hops

PART VII

Olive oil and table olives

The olive oil and table olives sector shall cover the products listed in the following table:

CN code	Description
(a) 1509	Olive oil and its fractions, whether or not refined, but not chemically modified
1510 00	Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509
(b) 0709 92 10	Olives, fresh or chilled, for uses other than the production of oil
0709 92 90	Other olives, fresh or chilled
0710 80 10	Olives (uncooked or cooked by steaming or boiling water), frozen
0711 20	Olives provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption
ex 0712 90 90	Olives dried, whole, cut, sliced, broken or in powder, but not further prepared
2001 90 65	Olives prepared or preserved by vinegar or acetic acid
ex 2004 90 30	Olives prepared or preserved otherwise than by vinegar or acetic acid, frozen
2005 70 00	Olives prepared or preserved otherwise than by vinegar or acetic acid, not frozen

CN code	Description
(c) 1522 00 31 1522 00 39	Residues resulting from the treatment of fatty substances or animal or vegetable waxes containing oil having the characteristics of olive oil
2306 90 11 2306 90 19	Oil-cake and other solid residues resulting from the extractions of olive oil

PART VIII

Flax and hemp

The flax and hemp sector shall cover the products listed in the following table:

CN code	Description
5301	Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock)
5302	True hemp (<i>Cannabis sativa</i> L.) raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock)

PART IX

Fruit and vegetables

The fruit and vegetables sector shall cover the products listed in the following table:

CN code	Description
0702 00 00	Tomatoes, fresh or chilled
0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled
0705	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium</i> spp.), fresh or chilled
0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
0707 00	Cucumbers and gherkins, fresh or chilled
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
ex 0709	Other vegetables, fresh or chilled, excluding vegetables of subheadings 0709 60 91, 0709 60 95, 0709 60 99, 0709 92 10, 0709 92 90 and 0709 99 60
ex 0802	Other nuts, fresh or dried, whether or not shelled or peeled, excluding areca (or betel) and kola nuts falling within subheading 0802 70 00, 0802 80 00
0803 10 10	Fresh plantains
0803 10 90	Dried plantains
0804 20 10	Figs, fresh
0804 30 00	Pineapples
0804 40 00	Avocados
0804 50 00	Guavas, mangos and mangosteens
0805	Citrus fruit, fresh or dried
0806 10 10	Fresh table grapes
0807	Melons (including watermelons) and papaws (papayas), fresh
0808	Apples, pears and quinces, fresh

CN code	Description
0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
0810	Other fruit, fresh
0813 50 31	Mixtures exclusively of nuts of headings 0801 and 0802
0813 50 39	
0910 20	Saffron
ex 0910 99	Thyme, fresh or chilled
ex 1211 90 86	Basil, melissa, mint, <i>Origanum vulgare</i> (oregano/wild marjoram), rosemary, sage, fresh or chilled
1212 92 00	Locust beans (carob)

PART X

Processed fruit and vegetable products

The processed fruit and vegetable sector shall cover the products listed in the following table:

CN code	Description
(a) ex 0710	Vegetables (uncooked or cooked by steaming or boiling in water) frozen, excluding sweetcorn of subheading 0710 40 00, olives of subheading 0710 80 10 and fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> of subheading 0710 80 59
ex 0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption, excluding olives of subheading 0711 20, fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> of subheading 0711 90 10 and sweetcorn of subheading 0711 90 30
ex 0712	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared, excluding potatoes dehydrated by artificial heat-drying and unfit for human consumption falling within subheading ex 0712 90 05, sweetcorn falling within the subheadings 0712 90 11 and 0712 90 19 and olives falling within subheading ex 0712 90 90
0804 20 90	Dried figs
0806 20	Dried grapes
ex 0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, not containing added sugar or other sweetening matter, excluding frozen bananas falling within subheading ex 0811 90 95
ex 0812	Fruit and nuts, provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption, excluding bananas provisionally preserved falling within subheading ex 0812 90 98
ex 0813	Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter excluding mixtures exclusively of nuts of headings 0801 and 0802 falling within subheadings 0813 50 31 and 0813 50 39
0814 00 00	Peel of citrus fruit or melons (including watermelons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions
0904 21 10	Dried sweet peppers (<i>Capsicum annuum</i>), neither crushed nor ground
(b) ex 0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, containing added sugar or other sweetening matter
ex 1302 20	Pectic substances and pectinates

CN code	Description
ex 2001	<p>Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid, excluding:</p> <ul style="list-style-type: none"> — fruit of the genus <i>Capsicum</i> other than sweet peppers or pimentos of subheading 2001 90 20 — sweetcorn (<i>Zea mays</i> var. <i>saccharata</i>) of subheading 2001 90 30 — yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch of subheading 2001 90 40 — palm hearts of subheading ex 2001 90 92 — olives of subheading 2001 90 65 — vine leaves, hop shoots and other similar edible parts of plants falling within subheading ex 2001 90 97
2002	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid
2003	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid
ex 2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than the products of heading 2006, excluding sweetcorn (<i>Zea mays</i> var. <i>saccharata</i>) of subheading 2004 90 10, olives of subheading ex 2004 90 30 and potatoes prepared or preserved in the form of flour, meal or flakes of subheading 2004 10 91
ex 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006 excluding olives of subheading 2005 70 00, sweetcorn (<i>Zea mays</i> var. <i>saccharata</i>) of subheading 2005 80 00 and fruit of the genus <i>Capsicum</i> , other than sweet peppers or pimentos of subheading 2005 99 10 and potatoes prepared or preserved in the form of flour, meal or flakes of subheading 2005 20 10
ex 2006 00	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallised), excluding bananas preserved by sugar falling within headings ex 2006 00 38 and ex 2006 00 99
ex 2007	<p>Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter, excluding:</p> <ul style="list-style-type: none"> — homogenised preparations of bananas of subheading ex 2007 10 — jams, jellies, marmalades, purée or pastes of bananas of subheadings ex 2007 99 39, ex 2007 99 50 and ex 2007 99 97
ex 2008	<p>Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included, excluding:</p> <ul style="list-style-type: none"> — peanut butter of subheading 2008 11 10 — palm hearts of subheading 2008 91 00 — maize of subheading 2008 99 85 — yams, sweet potatoes and similar edible parts of plants, containing 5 % or more by weight of starch of subheading 2008 99 91 — vine leaves, hop shoots and other similar edible parts of plants falling within subheading ex 2008 99 99 — mixtures of banana otherwise prepared or preserved of subheadings ex 2008 97 59, ex 2008 97 78, ex 2008 97 93 and ex 2008 97 98 — bananas otherwise prepared or preserved of subheadings ex 2008 99 49, ex 2008 99 67 and ex 2008 99 99
ex 2009	Fruit juices (excluding grape juice and grape must of subheadings 2009 61 and 2009 69 and banana juice of subheading ex 2009 89 35, 2009 89 38, 2009 89 79, 2009 89 86, 2009 89 89 and 2009 89 99) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter

PART XI

Bananas

The bananas sector shall cover the products listed in the following table:

CN code	Description
0803 90 10	Fresh bananas, excluding plantains
0803 90 90	Dried bananas, excluding plantains
ex 0812 90 98	Bananas provisionally preserved
ex 0813 50 99	Mixtures containing dried bananas
1106 30 10	Flour, meal and powder of bananas
ex 2006 00 99	Bananas preserved by sugar
ex 2007 10 99	Homogenised preparations of bananas
ex 2007 99 39	Jams, jellies, marmalades, purées and pastes of bananas
ex 2007 99 50	
ex 2007 99 97	
ex 2008 97 59	Mixtures containing bananas otherwise prepared or preserved, not containing added spirit
ex 2008 97 78	
ex 2008 97 93	
ex 2008 97 96	
ex 2008 97 98	
ex 2008 99 49	Bananas otherwise prepared or preserved
ex 2008 99 67	
ex 2008 99 99	
ex 2009 89 35	Banana juice
ex 2009 89 38	
ex 2009 89 79	
ex 2009 89 86	
ex 2009 89 89	
ex 2009 89 99	

PART XII

Wine

The wine sector shall cover the products listed in the following table:

CN code	Description
(a) 2009 61	Grape juice (including grape must)
2009 69	
2204 30 92	Other grape musts, other than those in fermentation or with fermentation arrested otherwise than by the addition of alcohol
2204 30 94	
2204 30 96	
2204 30 98	
(b) ex 2204	Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009, excluding other grape must of subheadings 2204 30 92, 2204 30 94, 2204 30 96 and 2204 30 98
(c) 0806 10 90	Fresh grapes other than table grapes
2209 00 11	Wine vinegar
2209 00 19	

CN code	Description
(d) 2206 00 10	Piquette
2307 00 11	Wine lees
2307 00 19	
2308 00 11	Grape marc
2308 00 19	

PART XIII

Live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage

The live plants sector shall cover all the products falling within Chapter 6 of the Combined Nomenclature.

PART XIV

Tobacco

The tobacco sector shall cover raw or non-manufactured tobacco and tobacco refuse falling within CN code 2401.

PART XV

Beef and veal

The beef and veal sector shall cover the products listed in the following table:

CN code	Description
(a) 0102 29 05 to 0102 29 99, 0102 39 10 and 0102 90 91	Live animals of the domestic bovine species, other than pure-bred breeding animals
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0206 10 95	Thick skirt and thin skirt, fresh or chilled
0206 29 91	Thick skirt and thin skirt, frozen
0210 20	Meat of bovine animals, salted, in brine, dried or smoked
0210 99 51	Thick skirt and thin skirt, salted, in brine, dried or smoked
0210 99 90	Edible flours and meals of meat or meat offal
1602 50 10	Other prepared or preserved meat or meat offal of bovine animals, uncooked; mixtures of cooked meat or offal and uncooked meat or offal
1602 90 61	Other prepared or preserved meat containing bovine meat or offal, uncooked; mixtures of cooked meat or offal and uncooked meat or offal
(b) 0102 21, 0102 31 00 and 0102 90 20	Live bovine pure-bred breeding animals
0206 10 98	Edible offal of bovine animals excluding thick skirt and thin skirt, fresh or chilled, other than for the manufacture of pharmaceutical products
0206 21 00	Edible offal of bovine animals excluding thick skirt and thin skirt, frozen, other than for the manufacture of pharmaceutical products
0206 22 00	
0206 29 99	
0210 99 59	Edible meat offal of bovine animals, salted, in brine, dried or smoked, other than thick skirt and thin skirt

CN code	Description
ex 1502 10 90	Fats of bovine animals other than those of heading 1503
1602 50 31 and 1602 50 95	Other prepared or preserved meat or meat offal, of bovine animals, other than uncooked meat or meat offal and mixtures of cooked meat or offal and uncooked meat or offal
1602 90 69	Other prepared or preserved meat containing bovine meat or offal other than uncooked, and mixtures of cooked meat or offal and uncooked meat or offal.

PART XVI

Milk and milk products

The milk and milk products sector shall cover the products listed in the following table:

CN code	Description
(a) 0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter
(b) 0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
(c) 0403 10 11 to 0403 10 39 0403 9011 to 0403 90 69	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter not flavoured nor containing added fruit, nuts or cocoa
(d) 0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included
(e) ex 0405	Butter and other fats and oils derived from milk; dairy spreads of a fat content of more than 75 % but less than 80 %
(f) 0406	Cheese and curd
(g) 1702 19 00	Lactose and lactose syrup not containing added flavouring or colouring matter, containing by weight less than 99 % lactose, expressed as anhydrous lactose, calculated on the dry matter
(h) 2106 90 51	Flavoured or coloured lactose syrup
(i) ex 2309	Preparations of a kind used in animal feeding:
ex 2309 10	– Dog or cat food, put up for retail sale:
2309 10 15	– – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup of
2309 10 19	subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or
2309 10 39	milk products
2309 10 59	
2309 10 70	
ex 2309 90	– Other:
2309 90 35	– – Other, including premixes:
2309 90 39	– – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup of
2309 90 49	subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or
2309 90 59	milk products
2309 90 70	

PART XVII

Pigmeat

The pigmeat sector shall cover the products listed in the following table:

CN code	Description
(a) ex 0103	Live swine, of domestic species, other than pure-bred breeding animals
(b) ex 0203	Meat of domestic swine, fresh, chilled, or frozen
ex 0206	Edible offal of domestic swine, other than for the manufacture of pharmaceutical products, fresh, chilled or frozen
0209 10	Pig fat, free of lean meat, not rendered or otherwise extracted, fresh, chilled, frozen, salted, in brine, dried or smoked
ex 0210	Meat and edible meat offal of domestic swine, salted, in brine, dried or smoked
1501 10	Pig fat (including lard)
1501 20	
(c) 1601 00	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products
1602 10 00	Homogenised preparations of meat, meat offal or blood
1602 20 90	Preparations or preserves of liver of any animal, other than goose or duck
1602 41 10	Other preparations and preserves containing meat or offal of domestic swine
1602 42 10	
1602 49 11 to	
1602 49 50	
1602 90 10	Preparations of blood of any animal
1602 90 51	Other preparations or preserves containing meat or meat offal of domestic swine
1902 20 30	Stuffed pasta, whether or not cooked or otherwise prepared, containing more than 20 % by weight of sausages and the like, of meat and meat offal of any kind, including fats of any kind or origin

PART XVIII

Sheepmeat and goatmeat

The sheepmeat and goatmeat sector shall cover the products listed in the following table:

CN code	Description
(a) 0104 10 30	Lambs (up to one year old)
0104 10 80	Live sheep other than pure-bred breeding animals and lambs
0104 20 90	Live goats other than pure-bred breeding animals
0204	Meat of sheep or goats, fresh, chilled or frozen
0210 99 21	Meat of sheep and goats, with bone in, salted, in brine, dried or smoked
0210 99 29	Meat of sheep and goats, boneless, salted, in brine, dried or smoked
(b) 0104 10 10	Live sheep — pure-bred breeding animals
0104 20 10	Live goats — pure-bred breeding animals
0206 80 99	Edible offal of sheep and goats, fresh or chilled, other than for the manufacture of pharmaceutical products

CN code	Description
0206 90 99	Edible offal of sheep and goats, frozen, other than for the manufacture of pharmaceutical products
0210 99 85	Edible offal of sheep and goats, salted, in brine, dried or smoked
ex 1502 90 90	Fats of sheep or goats, other than those of heading 1503
(c) 1602 90 91	Other prepared or preserved meat or meat offal of sheep or goats;
1602 90 95	

PART XIX

Eggs

The eggs sector shall cover the products listed in the following table:

CN code	Description
(a) 0407 11 00	Poultry eggs, in shell, fresh, preserved or cooked
0407 19 11	
0407 19 19	
0407 21 00	
0407 29 10	
0407 90 10	
(b) 0408 11 80	Bird's eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter, other than unfit for human consumption
0408 19 81	
0408 19 89	
0408 91 80	
0408 99 80	

PART XX

Poultrymeat

The poultrymeat sector shall cover the products listed in the following table:

CN code	Description
(a) 0105	Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys and guinea fowls
(b) ex 0207	Meat and edible offal, of the poultry of heading 0105 fresh, chilled or frozen, excluding livers falling within point (c)
(c) 0207 13 91	Poultry liver, fresh, chilled or frozen
0207 14 91	
0207 26 91	
0207 27 91	
0207 43 00	
0207 44 91	
0207 45 93	
0207 45 95	
0210 99 71	
0210 99 79	
(d) 0209 90 00	Poultry livers, salted, in brine, dried or smoked
(d) 0209 90 00	Poultry fat, not rendered or otherwise extracted, fresh, chilled, frozen, salted, in brine, dried or smoked
(e) 1501 90 00	Poultry fat

CN code	Description
(f) 1602 20 10	Goose or duck livers, otherwise prepared or preserved
1602 31	Meat or meat offal of poultry of heading 0105, otherwise prepared or preserved
1602 32	
1602 39	

PART XXI

Ethyl alcohol of agricultural origin

1. The ethyl alcohol sector shall cover the products listed in the following table:

CN code	Description
ex 2207 10 00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher obtained from the agricultural products listed in Annex I to the Treaties
ex 2207 20 00	Ethyl alcohol and other spirits, denatured, of any strength, obtained from the agricultural products listed in Annex I to the Treaties
ex 2208 90 91 and ex 2208 90 99	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol. obtained from the agricultural products listed in Annex I to the Treaties

2. The ethyl alcohol sector shall also cover products based on ethyl alcohol of agricultural origin falling within CN code 2208 put up in containers of more than two litres and presenting all the characteristics of ethyl alcohol as described in point 1.

PART XXII

Apiculture products

The apiculture sector shall cover the products listed in the following table:

CN code	Description
0409 00 00	Natural honey
ex 0410 00 00	Royal jelly and propolis, edible
ex 0511 99 85	Royal jelly and propolis, non-edible
ex 1212 99 95	Pollen
ex 1521 90	Beeswax

PART XXIII

Silkworms

The silkworm sector shall cover silkworms falling within CN code ex 0106 90 00 and silkworm eggs falling within CN code ex 0511 99 85.

PART XXIV

Other products

"Other products" means all agricultural products other than those listed in Parts I to XXIII, including those listed in the following Sections 1 and 2 of this Part.

Section 1

CN code	Description
ex 0101	Live horses, asses, mules and hinnies:
	- Horses
0101 21 00	-- Pure-bred breeding animals ^(a) :
0101 29	-- Other:
0101 29 90	--- Other than for slaughter
0101 30 00	-- Asses
0101 90 00	Other
ex 0102	Live bovine animals:
	-- Other than pure-bred breeding animals:
	--- Other than domestic species
0102 39 90, 0102 90 99	
ex 0103	Live swine:
0103 10 00	- Pure-bred breeding animals ^(b)
	- Other:
ex 0103 91	-- Weighing less than 50 kg:
0103 91 90	--- Other than domestic species
ex 0103 92	-- Weighing 50 kg or more
0103 92 90	-- Other than domestic species
0106	Other live animals
ex 0203	Meat of swine, fresh, chilled or frozen:
	- Fresh or chilled:
ex 0203 11	-- Carcasses and half-carcasses:
0203 11 90	--- Other than of domestic swine
ex 0203 12	-- Hams, shoulders and cuts thereof, with bone in:
0203 12 90	--- Other than of domestic swine
ex 0203 19	-- Other:
0203 19 90	--- Other than of domestic swine
	- Frozen:
ex 0203 21	-- Carcasses and half-carcasses:
0203 21 90	--- Other than of domestic swine
ex 0203 22	-- Hams, shoulders and cuts thereof, with bone in:
0203 22 90	--- Other than of domestic swine
ex 0203 29	-- Other:
0203 29 90	--- Other than of domestic swine
ex 0205 00	Meat of asses, mules or hinnies, fresh, chilled or frozen

CN code	Description
ex 0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen:
ex 0206 10	-Of bovine animals, fresh or chilled:
0206 10 10	--For the manufacture of pharmaceutical products (°)
	-Of bovine animals, frozen:
ex 0206 22 00	--Livers:
	---For the manufacture of pharmaceutical products (°)
ex 0206 29	--Other:
0206 29 10	---For the manufacture of pharmaceutical products (°)
ex 0206 30 00	-Of swine, fresh or chilled:
	--For the manufacture of pharmaceutical products (°)
	--Other:
	---other than of domestic swine
	-Of swine, frozen:
ex 0206 41 00	--Livers:
	---For the manufacture of pharmaceutical products (°)
	---Other:
	----other than of domestic swine
ex 0206 49 00	--Other:
	---Of domestic swine:
	----For the manufacture of pharmaceutical products (°)
	---Other
ex 0206 80	-Other, fresh or chilled:
0206 80 10	--For the manufacture of pharmaceutical products (°)
	--Other:
0206 80 91	---Of horses, asses, mules and hinnies
ex 0206 90	-Other, frozen:
0206 90 10	--For the manufacture of pharmaceutical products (°)
	--Other:
0206 90 91	---Of horses, asses, mules and hinnies
0208	Other meat and edible meat offal, fresh, chilled or frozen
ex 0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:
	-Meat of swine:
ex 0210 11	--Hams, shoulders and cuts thereof, with bone in:
0210 11 90	---Other than of domestic swine
ex 0210 12	--Bellies (streaky) and cuts thereof:
0210 12 90	---Other than of domestic swine

CN code	Description
ex 0210 19	-- Other:
0210 19 90	--- Other than of domestic swine - Other, including edible flours and meals of meat or meat offal:
0210 91 00	-- Of primates
0210 92	-- Of whales, dolphins and porpoises (mammals of the order <i>Cetacea</i>); of manatees and dugongs (mammals of the order <i>Sirenia</i>); of seals, sea lions and walruses (mammals of the suborder <i>Pinnipedia</i>)
0210 93 00	-- Of reptiles (including snakes and turtles)
ex 0210 99	-- Other:
	--- Meat:
0210 99 31	---- Of reindeer
0210 99 39	---- Other --- Offal:
	---- Other than of domestic swine, bovine animals, sheep and goats
0210 99 85	----- Other than poultry livers
ex 0407	Birds' eggs, in shell, fresh, preserved or cooked:
0407 19 90, 0407 29 90 and 0407 90 90	- Other than of poultry
ex 0408	Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter: - Egg yolks:
ex 0408 11	-- Dried:
0408 11 20	--- Unfit for human consumption ^(d)
ex 0408 19	-- Other:
0408 19 20	--- Unfit for human consumption ^(d) - Other:
ex 0408 91	-- Dried:
0408 91 20	--- Unfit for human consumption ^(d)
ex 0408 99	-- Other:
0408 99 20	--- Unfit for human consumption ^(d)
0410 00 00	Edible products of animal origin, not elsewhere specified or included
0504 00 00	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked
ex 0511	Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption:
0511 10 00	- Bovine semen - Other:
ex 0511 99	-- Other:
0511 99 85	--- Other

CN code	Description
ex 0709	Other vegetables, fresh or chilled:
ex 0709 60	-Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> :
	-- Other:
0709 60 91	----Of the genus <i>Capsicum</i> , for the manufacture of capsin or <i>capsicum</i> oleoresin dyes (9)
0709 60 95	--- For the industrial manufacture of essential oils or resinoids (9)
0709 60 99	--- Other
ex 0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen:
ex 0710 80	-Other vegetables:
	-- Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> :
0710 80 59	--- Other than sweet peppers
ex 0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption:
ex 0711 90	-Other vegetables; mixtures of vegetables:
	-- Vegetables:
0711 90 10	----Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , excluding sweet peppers
ex 0713	Dried leguminous vegetables, shelled, whether or not skinned or split:
ex 0713 10	-Peas (<i>Pisum sativum</i>):
0713 10 90	-- Other than for sowing
ex 0713 20 00	-Chickpeas (garbanzos):
	-- Other than for sowing
	-Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.):
ex 0713 31 00	-- Beans of the species <i>Vigna mungo</i> (L) Hepper or <i>Vigna radiata</i> (L) Wilczek:
	--- Other than for sowing
ex 0713 32 00	-- Small red (Adzuki) beans (<i>Phaseolus</i> or <i>Vigna angularis</i>):
	--- Other than for sowing
ex 0713 33	-- Kidney beans, including white pea beans (<i>Phaseolus vulgaris</i>):
0713 33 90	--- Other than for sowing
ex 0713 34 00	-- Bambara beans (<i>Vigna subterranea</i> or <i>Voandzeia subterranea</i>)
ex 0713 35 00	--- Other than for sowing
ex 0713 39 00	-- Cow peas (<i>Vigna unguiculata</i>):
	--- Other than for sowing
	-- Other:
	--- Other than for sowing
ex 0713 40 00	-Lentils:
	-- Other than for sowing
ex 0713 50 00	-Broad beans (<i>Vicia faba</i> var. <i>major</i>) and horse beans (<i>Vicia faba</i> var. <i>equina</i> and <i>Vicia faba</i> var. <i>minor</i>):
	-- Other than for sowing
ex 0713 60 00	-Pigeon peas (<i>Cajanus cajan</i>):

CN code	Description
	-- Other than for sowing
ex 0713 90 00	- Other:
	-- Other than for sowing
0801	Coconuts, Brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled
ex 0802	Other nuts, fresh or dried, whether or not shelled or peeled:
0802 70 00	- Kola nuts (<i>Cola</i> spp.)
0802 80 00	- Areca nuts
ex 0804	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried:
0804 10 00	- Dates
0902	Tea, whether or not flavoured
ex 0904	Pepper of the genus <i>Piper</i> ; dried or crushed or ground fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , excluding sweet peppers falling within subheading 0904 21 10
0905	Vanilla
0906	Cinnamon and cinnamon-tree flowers
0907	Cloves (whole fruit, cloves and stems)
0908	Nutmeg, mace and cardamoms
0909	Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries
ex 0910	Ginger, turmeric (curcuma), bay leaves, curry and other spices excluding thyme and saffron
ex 1106	Flour, meal and powder of the dried leguminous vegetables of heading 0713, of sago or of roots or tubers of heading 0714 or of the products of Chapter 8:
1106 10 00	- Of the dried leguminous vegetables of heading 0713
ex 1106 30	- Of the products of Chapter 8:
1106 30 90	-- Other than bananas
ex 1108	Starches; inulin:
1108 20 00	- Inulin
1201 90 00	Soya beans, whether or not broken, other than seed
1202 41 00	Groundnuts, not roasted or otherwise cooked, in shell, other than seed
1202 42 00	Ground-nuts, not roasted or otherwise cooked, shelled, whether or not broken, other than seed
1203 00 00	Copra
1204 00 90	Linseed, whether or not broken, other than for sowing
1205 10 90 and ex 1205 90 00	Rape or colza seeds, whether or not broken, other than for sowing
1206 00 91	Sunflower seeds, whether or not broken, other than for sowing
1206 00 99	
1207 29 00	Cotton seeds, whether or not broken, other than for sowing
1207 40 90	Sesamum seeds, whether or not broken, other than for sowing
1207 50 90	Mustard seeds, whether or not broken, other than for sowing
1207 91 90	Poppy seeds, whether or not broken, other than for sowing
1207 99 91	Hemp seeds, whether or not broken, other than for sowing

CN code	Description
ex 1207 99 96	Other oilseeds and oleaginous fruits, whether or not broken, other than for sowing
1208	Flours and meals of oil seeds or oleaginous fruits, other than those of mustard
ex 1211	Plants and parts of plants (including seeds and fruits) of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh or dried, whether or not cut, crushed or powdered excluding the products listed under CN code ex 1211 90 86 in Part IX;
ex 1212	Locust beans, seaweeds and other algae, sugar beet and sugar cane, fresh, chilled, frozen or dried, whether or not ground; fruit stones and kernels and other vegetable products (including unroasted chicory roots of <i>Cichorium intybus</i> var. <i>sativum</i>) of a kind used primarily for human consumption, not elsewhere specified or included:
ex 1212 99	-- Other than sugar cane:
1212 99 41 and 1212 99 49	--- Locust bean seeds
ex 1212 99 95	--- Other, excluding chicory root
1213 00 00	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets
ex 1214	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets:
ex 1214 10 00	- Lucerne (alfalfa) meal and pellets, excluding of lucerne artificially heat-dried or of lucerne otherwise dried and ground
ex 1214 90	- Other:
1214 90 10	-- Mangolds, swedes and other fodder roots
ex 1214 90 90	-- Other, excluding:
	- Lucerne, sainfoin, clover, lupines, vetches and similar fodder products artificially heat-dried, except hay and fodder kale and products containing hay
	- Lucerne, sainfoin, clover, lupines, vetches, honey lotus, chickling pea and birdsfoot, otherwise dried and ground
ex 1502	Fats of bovine animals, sheep or goats, other than those of heading 1503:
ex 1502 10 10 ex 1502 90 10	- For industrial uses other than the manufacture of foodstuffs for human consumption, excluding fats obtained from bones and waste (6)
1503 00	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared
ex 1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified, excluding fish liver oils and the fractions of heading 1504 10 and fats and oils and their fractions, of fish, other than liver oils of heading 1504 20
1507	Soya-bean oil and its fractions, whether or not refined, but not chemically modified
1508	Groundnut oil and its fractions, whether or not refined, but not chemically modified

CN code	Description
1511	Palm oil and its fractions, whether or not refined, but not chemically modified
1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified
1513	Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified
1514	Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified
ex 1515	Other fixed vegetable fats and oils (excluding jojoba oil of subheading ex 1515 90 11) and their fractions, whether or not refined, but not chemically modified
ex 1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared (excluding hydrogenated castor oil, so called 'opalwax' of subheading 1516 20 10)
ex 1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading 1516, excluding subheadings 1517 10 10, 1517 90 10 and 1517 90 93
1518 00 31 and 1518 00 39	Fixed vegetable oils, fluid, mixed for technical or industrial uses other than the manufacture of foodstuffs for human consumption (*)
1522 00 91	Oil foots and dregs; soapstocks, resulting from the treatment of fatty substances or animal or vegetable waxes, excluding those containing oil having the characteristics of olive oil
1522 00 99	Other residues resulting from the treatment of fatty substances or animal or vegetable waxes, excluding those containing oil having the characteristics of olive oil
ex 1602	Other prepared or preserved meat, meat offal or blood:
	-Of swine:
ex 1602 41	--Hams and cuts thereof:
1602 41 90	---Other than of domestic swine
ex 1602 42	--Shoulders and cuts thereof:
1602 42 90	---Other than of domestic swine
ex 1602 49	--Other, including mixtures:
1602 49 90	---Other than of domestic swine
ex 1602 90	-Other, including preparations of blood of any animal:
	--Other than preparations of blood of any animal:
1602 90 31	---Of game or rabbit
	---Other:
	----Other than containing the meat or meat offal of domestic swine:
	-----Other than containing bovine meat or offal:
1602 90 99	-----Other than of sheep or goats
ex 1603 00	Extracts and juices of meat
1801 00 00	Cocoa beans, whole or broken, raw or roasted
1802 00 00	Cocoa shells, husks, skins and other cocoa waste

CN code	Description
ex 2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:
ex 2001 90	– Other:
2001 90 20	-- Fruits of the genus <i>Capsicum</i> other than sweet peppers or pimentos
ex 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006:
ex 2005 99	– Other vegetables and mixtures of vegetables:
2005 99 10	-- Fruits of the genus <i>Capsicum</i> other than sweet peppers or pimentos
ex 2206	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:
2206 00 31 to 2206 00 89	– Other than piquette
ex 2301	Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves:
2301 10 00	– Flours, meals and pellets, of meat or meat offal; greaves
ex 2302	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants:
2302 50 00	– Of leguminous plants
2304 00 00	Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil
2305 00 00	Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of groundnut oil
ex 2306	Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, other than those of heading 2304 or 2305 with the exception of subheading 2306 90 05 (oilcake and other solid residues resulting from the extraction of maize (corn) germ) and 2306 90 11 and 2306 90 19 (oilcake and other solid residues resulting from the extraction of olive oil)
ex 2307 00	Wine lees; argol:
2307 00 90	– Argol
ex 2308 00	Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included:
2308 00 90	– Other than grape marc, acorns and horse-chestnuts, pomace or marc of fruit, other than grapes
ex 2309	Preparations of a kind used in animal feeding:
ex 2309 10	– Dog or cat food, put up for retail sale:
2309 10 90	-- Other than containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup of subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products
ex 2309 90	– Other:
ex 2309 90 10	-- Other, including premixes:
	-- Marine mammal solubles

CN code	Description
ex 2309 90 91 to 2309 90 96	<p>--- Other than containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup of subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products, excluding</p> <p>– Protein concentrates obtained from lucerne juice and grass juice</p> <p>– Dehydrated products obtained exclusively from solid residues and juice resulting from the preparation of the concentrates referred to in the first indent</p>

(^e) Entry under this subheading is subject to the conditions laid down in the relevant Union provisions (see Council Directive 94/28/EC (¹) and Commission Regulation (EC) No 504/2008 (²)).

(¹) Council Directive 94/28/EC of 23 June 1994 laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of animals, their semen, ova and embryos, and amending Directive 77/504/EEC on pure-bred breeding animals of the bovine species (OJ L 178, 12.7.1994, p. 66).

(²) Commission Regulation (EC) No 504/2008 of 6 June 2008 implementing Council Directives 90/426/EEC and 90/427/EEC as regards methods for the identification of equidae (OJ L 149, 7.6.2008, p. 3).

(^b) Entry under this subheading is subject to conditions laid down in the relevant Union provisions (see Council Directive 88/661/EEC (³), Directive 94/28/EC and Commission Decision 96/510/EC (⁴)).

(³) Council Directive 88/661/EEC of 19 December 1988 on the zootechnical standards applicable to breeding animals of the porcine species (OJ L 382, 31.12.1988, p. 36).

(⁴) Commission Decision 96/510/EC of 18 July 1996 laying down the pedigree and zootechnical certificates for the importation of breeding animals, their semen, ova and embryos (OJ L 210, 20.8.1996, p. 53).

(^c) Entry under this subheading is subject to conditions laid down in the relevant Union provisions (see Articles 291 to 300 of Regulation (EEC) No 2454/93).

(^d) Entry under this subheading is subject to conditions laid down in paragraph F of Section II of the preliminary provisions of the Combined Nomenclature.

Section 2

CN code	Description
0101 29 10	Live horses, for slaughter (^e)
ex 0205 00	Meat of horses, fresh, chilled or frozen
0210 99 10	Horsemeat, salted in brine or dried
0511 99 10	Sinews or tendons; parings and similar wastes of raw hides or skins
0701	Potatoes, fresh or chilled
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion
1105	Flour, meal, powder, flakes, granules and pellets of potatoes
ex 1212 94 00	Chicory roots
2209 00 91 and 2209 00 99	Vinegar and substitutes for vinegar obtained from acetic acid other than wine vinegar
4501	Natural cork, raw or simply prepared; waste cork; crushed, granulated or ground cork

(^e) Entry under this subheading is subject to conditions laid down in the relevant Union provisions (see Articles 291 to 300 of Regulation (EEC) No 2454/93).

ANNEX II

DEFINITIONS REFERRED TO IN ARTICLE 3(1)

PART I

Definitions concerning the rice sector

- I. The terms 'paddy rice', 'husked rice', 'semi-milled rice', 'wholly milled rice', 'round grain rice', 'medium grain rice', 'long grain rice A or B' and 'broken rice' shall be defined as follows:
1. (a) "Paddy rice" means rice which has retained its husk after threshing.
 - (b) "Husked rice" means paddy rice from which only the husk has been removed. Examples of rice falling within this definition are those with the commercial descriptions 'brown rice', 'cargo rice', 'loonzain' and 'riso sbramoto'.
 - (c) "Semi-milled rice" means paddy rice from which the husk, part of the germ and the whole or part of the outer layers of the pericarp but not the inner layers have been removed.
 - (d) "Wholly milled rice" means paddy rice from which the husk, the whole of the outer and inner layers of the pericarp, the whole of the germ in the case of long grain or medium grain rice and at least part thereof in the case of round grain rice have been removed, but in which longitudinal white striations may remain on not more than 10 % of the grains.
2. (a) "Round grain rice" means rice, the grains of which are of a length not exceeding 5,2 mm and of a length/width ratio of less than 2.
 - (b) "Medium grain rice" means rice, the grains of which are of a length exceeding 5,2 mm but not exceeding 6,0 mm and of a length/width ratio no greater than 3.
 - (c) "Long grain rice" means
 - (i) long grain rice A, namely rice, the grains of which are of a length exceeding 6,0 mm and of a length/width ratio greater than 2 but less than 3;
 - (ii) long grain rice B, namely rice, the grains of which are of a length exceeding 6,0 mm and of a length/width ratio equal to or greater than 3.
 - (d) "Measurements of the grains" means grain measurements on wholly milled rice taken by the following method:
 - (i) take a sample representative of the batch;
 - (ii) sieve the sample so as to retain only whole grains, including immature grains;
 - (iii) carry out two measurements of 100 grains each and work out the average;
 - (iv) express the result in millimetres, rounded off to one decimal place.
3. "Broken rice" means grain fragments the length of which does not exceed three quarters of the average length of the whole grain.
- II. As regards grains and broken grains which are not of unimpaired quality, the following definitions shall apply:
1. "Whole grains" means grains from which only part of the end has been removed, irrespective of characteristics produced at each stage of milling.
 2. "Clipped grains" means grains from which the entire end has been removed.
 3. "Broken grains or fragments" means grains from which a part of the volume greater than the end has been removed; broken grains include:
 - (i) large broken grains (pieces of grain of a length not less than half that of a grain, but not constituting a complete grain),

- (ii) medium broken grains (pieces of grain of a length not less than a quarter of the length of a grain but which are smaller than the minimum size of 'large broken grains'),
 - (iii) fine broken grains (pieces of grain less than a quarter of the size of a grain but too large to pass through a sieve with a mesh of 1,4 mm),
 - (iv) fragments (small pieces or particles of grain which can pass through a sieve with a mesh of 1,4 mm); split grains (pieces produced by a longitudinal split in the grain) come under this definition.
4. "Green grains" means grains which are not fully ripened.
 5. "Grains showing natural malformation" means grains showing a natural malformation, whether or not of hereditary origin, as compared with the morphological characteristics typical of the variety.
 6. "Chalky grains" means grains at least three-quarters of the surface of which looks opaque and chalky.
 7. "Grains striated with red" means grains showing longitudinal red striations of differing intensity and shades, due to residues from the pericarp.
 8. "Spotted grains" means grains showing a well-defined small circle of dark colour of more or less regular shape; spotted grains also include those which show slight black striations on the surface only; the striations and spots must not show a yellow or dark aureole.
 9. "Stained grains" means grains which have undergone, on a small area of their surface, an obvious change in their natural colour; the stains may be of different colours (blackish, reddish, brown); deep black striations are also to be regarded as stains. If the colour of the stains is sufficiently marked (black, pink, reddish-brown) to be immediately visible and if they cover an area not less than half that of the grain, the grains must be considered to be yellow grains.
 10. "Yellow grains" means grains which have undergone, totally or partially, otherwise than by drying, a change in their natural colour and have taken on a lemon or orange-yellow tone.
 11. "Amber grains" means grains which have undergone, otherwise than by drying, a slight uniform change in colour over the whole surface; this change alters the colour of the grains to a light amber-yellow.

PART II

Technical definitions concerning the sugar sector

Section A

General definitions

1. "White sugars" means sugars, not flavoured or coloured or containing any other added substances, containing, in the dry state, 99,5 % or more by weight of sucrose, determined by the polarimetric method.
2. "Raw sugars" means sugars, not flavoured or coloured or containing any other added substances, containing, in the dry state, less than 99,5 % by weight of sucrose, determined by the polarimetric method.
3. "Isoglucose" means the product obtained from glucose or its polymers, with a content by weight in the dry state of at least 10 % fructose.
4. "Inulin syrup" means the immediate product obtained by hydrolysis of inulin or oligofructoses, containing in the dry state at least 10 % fructose in free form or as sucrose, and expressed as sugar/isoglucose equivalents. In order to avoid restrictions on the market for products with low sweetening power produced by inulin fibre processors without inulin syrup quota, this definition may be amended by the Commission by means of delegated acts pursuant to point (a) of Article 125(4).
5. A "delivery contract" means a contract concluded between a seller and an undertaking for the delivery of beet for the manufacture of sugar.
6. "Agreement within the trade" means one of the following:
 - (a) an agreement concluded, prior to the conclusion of any delivery contract, between undertakings or an undertakings' organisation recognised by the Member State concerned, or a group of such undertakings' organisations, on the one hand and a sellers' association recognised by the Member State concerned or a group of such sellers' organisations on the other;

- (b) in the absence of any agreement as referred to in point (a), the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the shareholders or members of a company or cooperative manufacturing sugar.

Section B

Definitions applying during the period referred to in Article 124

1. "Quota sugar", "quota isoglucose" and "quota inulin syrup" mean any quantity of sugar, isoglucose or inulin syrup production attributed to a specific marketing year under the quota of the undertaking concerned.
2. "Industrial sugar" means any quantity of sugar production attributed to a specific marketing year over and above the sugar quantity referred to in point 5, intended for the production by the industry of one of the products referred to in Article 140(2).
3. "Industrial isoglucose" and "industrial inulin syrup" mean any quantity of isoglucose or inulin syrup production attributed to a specific marketing year, intended for the production by the industry of one of the products referred to in Article 140(2).
4. "Surplus sugar", "surplus isoglucose" and "surplus inulin syrup" mean any quantity of sugar, isoglucose or inulin syrup production attributed to a specific marketing year over and above the respective quantities referred to in points 1, 2 and 3.
5. "Quota beet" means all sugar beet processed into quota sugar.
6. "Full-time refiner" means a production unit:
 - of which the sole activity consists of refining imported raw cane sugar, or
 - which refined in the marketing year 2004/2005 or, in the case of Croatia, 2007/2008 a quantity of at least 15 000 tonnes of imported raw cane sugar.

PART III

Definitions concerning the hops sector

1. "Hops" means the dried inflorescences, also known as cones, of the (female) climbing hop plant (*Humulus lupulus*); these inflorescences, which are greenish yellow and of an ovoid shape, have a flower stalk and their longest dimension generally varies from 2 to 5 cm.
2. "Hop powder" means the product obtained by milling the hops, containing all the natural elements thereof.
3. "Hop powder with higher lupulin content" means the product obtained by milling the hops after mechanical removal of a part of the leaves, stalks, bracts and rachides.
4. "Extract of hops" means the concentrated products obtained by the action of a solvent on the hops or on the hop powder.
5. "Mixed hop products" means a mixture of two or more of the products referred to in points 1 to 4.

PART IV

Definitions concerning the wine sector

Vine-related

1. "Grubbing up" means the complete elimination of all vine stocks on an area planted with vines.
2. "Planting" means the definitive establishment of vine plants or parts of vine plants, whether or not grafted, with a view to producing grapes or to establishing a graft nursery.
3. "Grafting-on" means the grafting of a vine which has already been subject to a previous grafting.

Produce-related

4. "Fresh grapes" means the fruit of the vine used in making wine, ripe or even slightly raisined, which may be crushed or pressed by normal wine-cellar means and which may spontaneously produce alcoholic fermentation.
5. "Fresh grape must with fermentation arrested by the addition of alcohol" means a product which:
 - (a) has an actual alcoholic strength of not less than 12 % volume and not more than 15 % volume;
 - (b) is obtained by addition to unfermented grape must, which has a natural alcoholic strength of not less than 8,5 % volume and is exclusively derived from wine grape varieties classifiable in accordance with Article 81(2):
 - (i) either of neutral alcohol of vinous origin, including alcohol obtained from the distillation of dried grapes, having an actual alcoholic strength of not less than 96 % volume;
 - (ii) or of an unrectified product derived from the distillation of wine and having an actual alcoholic strength of not less than 52 % volume and not more than 80 % volume.
6. "Grape juice" means the unfermented but fermentable liquid product which:
 - (a) is obtained by appropriate treatment rendering it fit for consumption as it is;
 - (b) is obtained from fresh grapes or from grape must or by reconstitution. Where obtained by reconstitution, it shall be reconstituted from concentrated grape must or concentrated grape juice.

An actual alcoholic strength of the grape juice of not more than 1 % volume is permissible.
7. "Concentrated grape juice" means uncaramelised grape juice obtained by partial dehydration of grape juice carried out by any authorised method other than by direct heat in such a way that the figure indicated by a refractometer used in accordance with a method to be prescribed at a temperature of 20 °C is not less than 50,9 %.

An actual alcoholic strength of the concentrated grape juice of not more than 1 % volume is permissible.

8. "Wine lees" means the residue:
 - (a) accumulating in vessels containing wine after fermentation, during storage or after authorised treatment;
 - (b) obtained from filtering or centrifuging the product referred to in (a);
 - (c) accumulating in vessels containing grape must during storage or after authorised treatment; or
 - (d) obtained from filtering or centrifuging the product referred to in (c).
9. "Grape marc" means the residue from the pressing of fresh grapes, whether or not fermented.
10. "Piquette" means a product obtained by:
 - (a) the fermentation of untreated grape marc macerated in water; or
 - (b) leaching fermented grape marc with water.
11. "Wine fortified for distillation" means a product which:
 - (a) has an actual alcoholic strength of not less than 18 % volume and not more than 24 % volume;

(b) is obtained exclusively by the addition to wine containing no residual sugar of an unrectified product derived from the distillation of wine and having a maximum actual alcoholic strength of 86 % volume; or

(c) has a maximum volatile acidity of 1,5 grams per litre, expressed as acetic acid.

12. "Cuvée" means

(a) the grape must;

(b) the wine; or

(c) the mixture of grape musts and/or wines with different characteristics,

intended for the preparation of a specific type of sparkling wine.

Alcoholic strength

13. "Actual alcoholic strength by volume" means the number of volumes of pure alcohol contained at a temperature of 20 °C in 100 volumes of the product at that temperature.

14. "Potential alcoholic strength by volume" means the number of volumes of pure alcohol at a temperature of 20 °C capable of being produced by total fermentation of the sugars contained in 100 volumes of the product at that temperature.

15. "Total alcoholic strength by volume" means the sum of the actual and potential alcoholic strengths.

16. "Natural alcoholic strength by volume" means the total alcoholic strength by volume of a product before any enrichment.

17. "Actual alcoholic strength by mass" means the number of kilograms of pure alcohol contained in 100 kilograms of product.

18. "Potential alcoholic strength by mass" means the number of kilograms of pure alcohol capable of being produced by total fermentation of the sugars contained in 100 kilograms of product.

19. "Total alcoholic strength by mass" means the sum of the actual and potential alcoholic strength.

PART V

Definitions concerning the beef and veal sector

"Bovine animals" means live animals of the domestic bovine species falling within CN codes 0102 21, 0102 31 00, 0102 90 20, ex 0102 29 10 to ex 0102 29 99, 0102 39 10, 0102 90 91.

PART VI

Definitions concerning the milk and milk products sector

For the purpose of the implementation of the tariff quota for butter of New Zealand origin, the phrase 'manufactured directly from milk or cream' does not exclude butter manufactured from milk or cream, without the use of stored materials, in a single, self-contained and uninterrupted process which may involve the cream passing through a stage of concentrated milk fat and/or the fractionation of such milk fat.

PART VII

Definitions concerning the eggs sector

1. "Eggs in shell" means poultry eggs in shell, fresh, preserved, or cooked, other than eggs for hatching specified in point 2.

2. "Eggs for hatching" means poultry eggs for hatching

3. "Whole products" means birds' eggs not in shell, whether or not containing added sugar or other sweetening matter suitable for human consumption.

4. "Separated products" means birds' egg yolks, whether or not containing added sugar or other sweetening matter suitable for human consumption.

PART VIII

Definitions concerning the poultrymeat sector

1. "Live poultry" means live fowls, ducks, geese, turkeys and guinea fowls each weighing more than 185 grams.
2. "Chicks" means live fowls, ducks, geese, turkeys and guinea fowls, each weighing not more than 185 grams.
3. "Slaughtered poultry" means dead fowls of the species *Gallus domesticus*, ducks, geese, turkeys and guinea fowls, whole, with or without offal.
4. "Derived products" means the following:
 - (a) products specified in point (a) of Part XX of Annex I;
 - (b) products specified in point (b) of Part XX of Annex I, excluding slaughtered poultry and edible offal, known as 'poultry cuts';
 - (c) edible offals specified in point (b) of Part XX of Annex I;
 - (d) products specified in point (c) of Part XX of Annex I;
 - (e) products specified in points (d) and (e) of Part XX of Annex I;
 - (f) products referred to in point (f) of Part XX of Annex I, other than those falling within CN code 1602 20 10.

PART IX

Definitions concerning the apiculture sector

1. Honey shall be understood as honey within the meaning of Council Directive 2001/110/EC ⁽¹⁾ including as regards to the main types of honey.
2. "Apiculture products" means honey, beeswax, royal jelly, propolis or pollen.

⁽¹⁾ Council Directive 2001/110/EC of 20 December 2001 relating to honey (OJ L 10, 12.1.2002, p. 47).

ANNEX III

STANDARD QUALITY OF RICE AND SUGAR AS REFERRED TO IN ARTICLES 7 AND 135

A. Standard quality for paddy rice

Paddy rice of standard quality shall:

- (a) be of sound, fair and marketable quality, free of odour;
- (b) contain a moisture content of maximum 13 %;
- (c) have a yield of wholly milled rice 63 % by weight in whole grains (with a tolerance of 3 % of clipped grains) of which a percentage by weight of wholly milled rice grains which are not of unimpaired quality:

chalky grains of paddy rice under CN codes 1006 10 27 and 1006 10 98	1,5 %
chalky grains of paddy rice under CN codes other than 1006 10 27 and 1006 10 98:	2,0 %
grains striated with red	1,0 %
spotted grains	0,50 %
stained grains	0,25 %
yellow grains	0,02 %
amber grains	0,05 %

B. Standard qualities for sugar

I. Standard quality for sugar beet

Standard quality beet shall:

- (a) be of sound, fair and marketable quality;
- (b) have a sugar content of 16 % at the reception point.

II. Standard quality for white sugar

1. White sugar of the standard quality shall have the following characteristics:

- (a) sound, fair and marketable quality; dry, in homogeneous granulated crystals, free-flowing;
- (b) minimum polarisation: 99,7;
- (c) maximum moisture content: 0,06 %;
- (d) maximum invert sugar content: 0,04 %;
- (e) the number of points determined under point 2 not exceeding a total of 22, nor:
 - 15 for the ash content,
 - 9 for the colour type, determined using the method of the Brunswick Institute of Agricultural Technology ("the Brunswick method"),
 - 6 for the colouring of the solution, determined using the method of the International Commission for Uniform Methods of Sugar Analysis ("the ICUMSA method").

2. One point shall correspond to:
 - (a) 0,0018 % of ash content determined using the ICUMSA method at 28° Brix;
 - (b) 0,5 units of colour type determined using the Brunswick method;
 - (c) 7,5 units of colouring of the solution determined using the ICUMSA method.
3. The methods for determining the factors referred to in point 1 shall be those used for determining those factors under the intervention measures.

III. *Standard quality for raw sugar*

1. Raw sugar of the standard quality shall be sugar with a yield in white sugar of 92 %.
 2. The yield of raw beet sugar shall be calculated by subtracting from the degree of polarisation of that sugar:
 - (a) its percentage ash content multiplied by four;
 - (b) its percentage invert sugar content multiplied by two;
 - (c) the number 1.
 3. The yield of raw cane sugar shall be calculated by subtracting 100 from the degree of polarisation of that sugar multiplied by two.
-

ANNEX IV

UNION SCALES FOR THE CLASSIFICATION OF CARCASSES REFERRED TO IN ARTICLE 10

A. Union scale for the classification of carcasses of bovine animals aged eight months or more

I. Definitions

The following definitions shall apply:

1. "carcass" means the whole body of a slaughtered animal as presented after bleeding, evisceration and skinning;
2. "half-carcass" means the product obtained by separating the carcass symmetrically through the middle of each cervical, dorsal, lumbar and sacral vertebra and through the middle of the sternum and the ischiopubic symphysis.

II. Categories

The bovine carcasses shall be divided into the following categories:

- Z: carcasses of animals aged from 8 months to less than 12 months;
- A: carcasses of uncastrated male animals aged from 12 months to less than 24 months;
- B: carcasses of uncastrated male animals aged from 24 months;
- C: carcasses of castrated male animals aged from 12 months;
- D: carcasses of female animals that have calved;
- E: carcasses of other female animals aged from 12 months.

III. Classification

The carcasses shall be classified by successive assessment of:

1. Conformation, defined as follows:

Development of carcass profiles, in particular the essential parts (round, back, shoulder)

Conformation class	Description
S Superior	All profiles extremely convex; exceptional muscle development (double muscled carcass type)
E Excellent	All profiles convex to super-convex; exceptional muscle development
U Very good	Profiles on the whole convex, very good muscle development
R Good	Profiles on the whole straight; good muscle development
O Fair	Profiles straight to concave; average muscle development
P Poor	All profiles concave to very concave; poor muscle development

2. Fat cover, defined as follows:

— Amount of fat on the outside of the carcass and in the thoracic cavity

Class of fat cover	Description
1 low	None up to low fat cover
2 slight	Slight fat cover, flesh visible almost everywhere
3 average	Flesh with the exception of the round and shoulder, almost everywhere covered with fat, slight deposits of fat in the thoracic cavity
4 high	Flesh covered with fat, but on the round and shoulder still partly visible, some distinctive fat deposits in the thoracic cavity
5 very high	Entire carcass covered with fat; heavy deposits in the thoracic cavity

Member States are authorised to subdivide each of the classes provided for in points 1 and 2 into a maximum of three subclasses.

IV. Presentation

Carcasses and half-carcasses shall be presented:

- (a) without the head and without the feet; the head shall be separated from the carcass at the atloido-occipital joint and the feet shall be severed at the carpometacarpal or tarsometatarsal joints;
- (b) without the organs contained in the thoracic and abdominal cavities with or without the kidneys, the kidney fat and the pelvic fat;
- (c) without the sexual organs and the attached muscles and without the udder or the mammary fat.

V. Classification and identification

Slaughterhouses approved under Article 4 of Regulation (EC) No 853/2004 of the European Parliament and of the Council ⁽¹⁾ shall take measures to ensure that all carcasses or half-carcasses bovine animals aged eight months or more slaughtered in such slaughterhouses and bearing a health mark provided for Article 5(2) in conjunction with Chapter III of Section I of Annex I to Regulation (EC) No 854/2004 of the European Parliament and of the Council ⁽²⁾ are classified and identified in accordance with the Union scale.

Before identification by marking, Member States may grant authorisation to have the external fat removed from the carcasses or half-carcasses if this is justified by the fat cover.

B. Union scale for the classification of pig carcasses

I. Definition

"Carcass" means the body of a slaughtered pig, bled and eviscerated, whole or divided down the mid-line.

II. Classification

Carcasses shall be divided into classes according to their estimated lean-meat content and classified accordingly:

Classes	Lean meat as percentage of carcass weight
S	60 or more
E	55 or more but less than 60
U	50 or more but less than 55

⁽¹⁾ Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

⁽²⁾ Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ L 139, 30.4.2004, p. 206).

Classes	Lean meat as percentage of carcass weight
R	45 or more but less than 50
O	40 or more but less than 45
P	less than 40

III. Presentation

Carcasses shall be presented without tongue, bristles, hooves, genital organs, flare fat, kidneys and diaphragm.

IV. Lean-meat content

1. The lean-meat content shall be assessed by means grading methods authorised by the Commission. Only statistically proven assessment methods based on the physical measurement of one or more anatomical parts of the pig carcass may be authorised. Authorisation of grading methods shall be subject to compliance with a maximum tolerance for statistical error in assessment.
2. However, the commercial value of the carcasses shall not be determined solely by their estimated lean-meat content.

V. Identification of carcasses

Unless otherwise provided for by the Commission, classified carcasses shall be identified by marking in accordance with the Union scale.

C. Union scale for the classification of sheep carcasses

I. Definition

The definitions of "carcass" and "half-carcass" laid down in point A.I shall apply.

II. Categories

The carcasses shall be divided into the following categories:

- A: carcasses of sheep under 12 months old,
 B: carcasses of other sheep.

III. Classification

The carcasses shall be classified by way of application of the provisions in point A.III. *mutatis mutandis*. However, the term "round" in point A.III.1 and in rows 3 and 4 of the table under point A.III.2. shall be replaced by the term "hindquarter".

IV. Presentation

Carcasses and half-carcasses shall be presented without the head (severed at the atlantooccipital joint), the feet (severed at the carpometacarpal or tarso-metatarsal joints), the tail (severed between the sixth and seventh caudal vertebrae), the udder, the genitalia, the liver and the pluck. Kidneys and kidney fat are included in the carcass.

Member States are authorised to permit different presentations when the reference presentation is not used.

V. Identification of carcasses

Classified carcasses and half-carcasses shall be identified by marking in accordance with the Union scale.

ANNEX V

**LIST OF PRODUCTS EXCLUDED FROM A SCHOOL FRUIT AND VEGETABLES SCHEME THAT IS
CO-FINANCED WITH UNION AID REFERRED TO IN ARTICLE 23(3)**

Products with any of the following:

- added sugar,
 - added fat,
 - added salt,
 - added sweeteners.
-

ANNEX VI

BUDGETARY LIMITS FOR SUPPORT PROGRAMMES REFERRED TO IN ARTICLE 44(1)*in 1 000 EUR per budget year*

	2014	2015	2016	2017 onwards
Bulgaria	26 762	26 762	26 762	26 762
Czech Republic	5 155	5 155	5 155	5 155
Germany	38 895	38 895	38 895	38 895
Greece	23 963	23 963	23 963	23 963
Spain	353 081	210 332	210 332	210 332
France	280 545	280 545	280 545	280 545
Croatia	11 885	11 885	11 885	10 832
Italy	336 997	336 997	336 997	336 997
Cyprus	4 646	4 646	4 646	4 646
Lithuania	45	45	45	45
Luxembourg	588	—	—	—
Hungary	29 103	29 103	29 103	29 103
Malta	402	—	—	—
Austria	13 688	13 688	13 688	13 688
Portugal	65 208	65 208	65 208	65 208
Romania	47 700	47 700	47 700	47 700
Slovenia	5 045	5 045	5 045	5 045
Slovakia	5 085	5 085	5 085	5 085
United Kingdom	120	—	—	—

ANNEX VII

DEFINITIONS, DESIGNATIONS AND SALES DESCRIPTION OF PRODUCTS REFERRED TO IN ARTICLE 78

For the purposes of this Annex, the "sale description" means the name under which a foodstuff is sold, within the meaning of Article 5(1) of Directive 2000/13/EC, or the name of the food, within the meaning of Article 17 of Regulation (EU) No 1169/2011.

PART I

Meat of bovine animals aged less than 12 months

I. Definition

For the purposes of this Part of this Annex, "meat" means all carcasses, meat on the bone or boned, and offal, whether or not cut, intended for human consumption, obtained from bovine animals aged less than 12 months, presented fresh, frozen or deep-frozen, whether or not wrapped or packed.

II. Classification of bovine animals aged less than 12 months at the slaughterhouse

On slaughter, all bovine animals aged less than 12 months shall be classified by the operators, under the supervision of the competent authority, in one of the following two categories:

(A) Category V: bovine animals aged less than eight months

Category identification letter: V;

(B) Category Z: bovine animals aged from 8 months to less than 12 months

Category identification letter: Z.

This classification shall be carried out on the basis of the information contained in the passport accompanying the bovine animals or, failing this, on the basis of the data contained in the computerised database provided for in Article 5 of Regulation (EC) No 1760/2000 of the European Parliament and of the Council ⁽¹⁾.

III. Sales descriptions

1. The meat of bovine animals aged less than 12 months shall only be marketed in the Member States under the following sales description(s) laid down for each Member State:

(A) For the meat of bovine animals aged less than eight months (category identification letter: V):

Country of marketing	Sales descriptions to be used
Belgium	veau, viande de veau/kalfsvlees/Kalbfleisch
Bulgaria	месо от малки телета
Czech Republic	Telecí
Denmark	Lyst kalvekød
Germany	Kalbfleisch
Estonia	Vasikaliha
Ireland	Veal
Greece	μοσχάρι γάλακτος
Spain	Ternera blanca, carne de ternera blanca
France	veau, viande de veau
Croatia	teletina
Italy	vitello, carne di vitello

⁽¹⁾ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1).

Cyprus	μοσχάρι γάλακτος
Latvia	Teļa gaļa
Lithuania	Veršiena
Luxembourg	veau, viande de veau/Kalbfleisch
Hungary	Borjúhús
Malta	Vitella
Netherlands	Kalfsvlees
Austria	Kalbfleisch
Poland	Cielęcina
Portugal	Vitela
Romania	carne de vițel
Slovenia	Teletina
Slovakia	Teľacie mäso
Finland	vaalea vasikanliha/ljust kalvkött
Sweden	ljust kalvkött
United Kingdom	Veal

(B) For the meat of bovine animals aged from 8 months to less than 12 months (category identification letter: Z):

Country of marketing	Sales descriptions to be used
Belgium	jeune bovin, viande de jeune bovin/jongrundvlees/Jungrindfleisch
Bulgaria	Телешко месо
Czech Republic	hovězí maso z mladého skotu
Denmark	Kalvekød
Germany	Jungrindfleisch
Estonia	noorloomaliha
Ireland	rosé veal
Greece	vealό μοσχάρι
Spain	Ternera, carne de ternera
France	jeune bovin, viande de jeune bovin
Croatia	mlada junetina
Italy	vitellone, carne di vitellone
Cyprus	vealό μοσχάρι
Latvia	jaunlopa gaļa
Lithuania	Jautiena
Luxembourg	jeune bovin, viande de jeune bovin/Jungrindfleisch
Hungary	Növendék marha húsa
Malta	Vitellun
Netherlands	rosé kalfsvlees
Austria	Jungrindfleisch
Poland	młoda wołowina
Portugal	Vitelão

Romania	carne de tineret bovin
Slovenia	meso težjih telet
Slovakia	mäso z mladého dobytka
Finland	vasikanliha/kalvkött
Sweden	Kalvkött
United Kingdom	Beef

2. The sales descriptions referred to in paragraph 1 may be supplemented by an indication of the name or designation of the pieces of meat or offal concerned.
3. The sales descriptions listed for category V in point A of the table set out in paragraph 1 and any new name derived from those sales descriptions shall only be used if the requirements of this Annex are fulfilled.

In particular, the terms "veau", "teleci", "Kalb", "μσοχύρι", "ternera", "kalv", "veal", "vitello", "vitella", "kalf", "vitela" and "teletina" shall not be used in a sales description or be indicated on the labelling of the meat of bovine animals aged more than 12 months.

4. The conditions referred to in paragraph 1 shall not apply to the meat of bovine animals with a designation of origin or geographical indication protected in accordance with Regulation (EU) No 1151/2012 registered before 29 June 2007.

IV. Compulsory indication on the label

1. Without prejudice to Directive 2000/13/EC, Regulation (EU) No 1169/2011 and Articles 13, 14 and 15 of Regulation (EC) No 1760/2000, at each stage of production and marketing, operators shall label the meat of bovine animals aged less than 12 months with the following information:

- (a) the sales description in accordance with point III of this Part;
- (b) the age of the animals on slaughter, indicated, as the case may be, on the form:
 - "age on slaughter: less than 8 months";
 - "age on slaughter: from 8 to less than 12 months".

By way of derogation from point (b) of the first subparagraph, operators may replace the indication on the age at slaughter by the indication of the category, respectively: "category V" or "category Z", at stages preceding the release to the final consumer.

2. In the case of the meat of bovine animals aged less than 12 months presented for sale un-prepacked at the point of retail sale to the final consumer, Member States shall lay down rules on how the information referred to in paragraph 1 is to be indicated.

V. Recording

At each stage of production and marketing, operators shall record the following information:

- (a) the identification number and the date of birth of the animals, at slaughterhouse level only;
- (b) a reference number making it possible to establish a link between, on the one hand, the identification of the animals from which the meat originates and, on the other hand, the sales description, the age on slaughter and the category identification letter given on the meat label;
- (c) the date of arrival and departure of the animals and meat in the establishment.

VI. Official checks

1. Member States shall designate the competent authority or authorities responsible for official checks performed to verify the application of this Part and inform the Commission thereof.

2. Official checks shall be carried out by the competent authority or authorities in accordance with the general principles laid down in Regulation (EC) No 882/2004 of the European Parliament and of the Council ⁽¹⁾.
3. The Commission's experts shall carry out, where required, jointly with the competent authorities concerned, and where applicable, the Member States' experts, on the spot checks to ensure that the provisions of this Annex are being implemented.
4. Any Member State on whose territory checks are carried out shall provide the Commission with all necessary assistance which it may require for the accomplishment of its tasks.
5. For meat imported from third countries a competent authority designated by the third country or, where applicable, an independent third-party body shall ensure that the requirements of this Part are fulfilled. The independent body shall provide full assurance of compliance with the conditions laid down in European Standard EN 45011 or ISO/IEC Guide 65.

PART II

Categories of grapevine products

(1) Wine

"Wine" means the product obtained exclusively from the total or partial alcoholic fermentation of fresh grapes, whether or not crushed, or of grape must.

Wine shall:

- (a) have, whether or not following application of the processes specified in Section B of Part I of Annex VIII, an actual alcoholic strength of not less than 8,5 % volume provided that the wine derives exclusively from grapes harvested in wine-growing zones A and B referred to in Appendix I to this Annex, and of not less than 9 % volume in other wine-growing zones;
- (b) have, by way of derogation from the otherwise applicable minimum actual alcoholic strength, where it has a protected designation of origin or a protected geographical indication, whether or not following application of the processes specified in Section B of Part I of Annex VIII, an actual alcoholic strength of not less than 4,5 % volume;
- (c) have a total alcoholic strength of not more than 15 % volume. However, by way of derogation:
 - the upper limit for the total alcoholic strength may reach up to 20 % volume for wines which have been produced without any enrichment from certain wine-growing areas of the Union, to be determined by the Commission by means of delegated acts pursuant to Article 75(2),
 - the upper limit for the total alcoholic strength may exceed 15 % volume for wines with a protected designation of origin which have been produced without enrichment;
- (d) have, subject to derogations which may be adopted by the Commission by means of delegated acts pursuant to Article 75(2), a total acidity content, expressed as tartaric acid, of not less than 3,5 grams per litre or 46,6 milliequivalents per litre.

"Retsina" means wine produced exclusively in the geographical territory of Greece using grape must treated with resin from the Aleppo pine. The use of Aleppo pine resin is permitted solely for the purpose of obtaining "Retsina" wine under the conditions laid down in Greece's applicable provision.

By way of derogation from point (b) of the second subparagraph "Tokaji eszencia" and "Tokajská esencia" are considered to be wine.

However, Member States may allow the use of the term "wine" if:

- (a) it is accompanied by the name of a fruit in the form of a composite name to market products obtained by the fermentation of fruit other than grapes; or
- (b) it is part of a composite name.

Any confusion with products corresponding to the wine categories in this Annex shall be avoided.

⁽¹⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1).

(2) New wine still in fermentation

"New wine still in fermentation" means the product in which the alcoholic fermentation is not yet complete and which is not yet separated from its lees.

(3) Liqueur wine

"Liqueur wine" means the product:

- (a) which has an actual alcoholic strength of not less than 15 % volume and not more than 22 % volume;
- (b) which has a total alcoholic strength of not less than 17,5 % volume, except for certain liqueur wines with a designation of origin or with a geographical indication appearing on a list to be drawn up by the Commission by means of delegated acts pursuant to Article 75(2);
- (c) which is obtained from:
 - grape must in fermentation,
 - wine,
 - a combination of the above products, or
 - grape must or a mixture thereof with wine for certain liqueur wines with a protected designation of origin or a protected geographical indication, to be determined by the Commission by means of delegated acts pursuant to Article 75(2);
- (d) which has an initial natural alcoholic strength of not less than 12 % volume, except for certain liqueur wines with a protected designation of origin or a protected geographical indication appearing on a list to be drawn up by the Commission by means of delegated acts pursuant to Article 75(2);
- (e) to which the following has been added:
 - (i) individually or in combination:
 - neutral alcohol of vine origin, including alcohol produced from the distillation of dried grapes, having an actual alcoholic strength of not less than 96 % volume,
 - wine or dried grape distillate, having an actual alcoholic strength of not less than 52 % volume and not more than 86 % volume;
 - (ii) together with one or more of the following products where appropriate:
 - concentrated grape must,
 - a combination of one of the products referred to in point (e)(i) with a grape must referred to in the first and fourth indent of point (c);
- (f) to which, by way of derogation from point (e), has been added, in so far as certain liqueur wines with a protected designation of origin or a protected geographical indication are concerned which appear on a list to be drawn up by the Commission by means of delegated acts pursuant to Article 75(2):
 - (i) either of products listed in point (e)(i) individually or in combination; or
 - (ii) one or more of the following products:
 - wine alcohol or dried grape alcohol with an actual alcoholic strength of not less than 95 % volume and not more than 96 % volume,
 - spirits distilled from wine or from grape marc, with an actual alcoholic strength of not less than 52 % volume and not more than 86 % volume,
 - spirits distilled from dried grapes, with an actual alcoholic strength of not less than 52 % volume and of less than 94,5 % volume; and

- (iii) one or more of the following products, where appropriate:
- partially fermented grape must obtained from raisined grapes,
 - concentrated grape must obtained by the action of direct heat, complying, with the exception of this operation, with the definition of concentrated grape must,
 - concentrated grape must,
 - a combination of one of the products listed in point (f)(ii) with a grape must referred to in the first and fourth indents of point (c).
- (4) Sparkling wine
- "Sparkling wine" means the product:
- (a) which is obtained by first or second alcoholic fermentation:
 - from fresh grapes,
 - from grape must, or
 - from wine;
 - (b) which, when the container is opened, releases carbon dioxide derived exclusively from fermentation;
 - (c) which has an excess pressure, due to carbon dioxide in solution, of not less than 3 bar when kept at a temperature of 20 °C in closed containers; and
 - (d) for which the total alcoholic strength of the cuvées intended for their preparation shall not be less than 8,5 % volume.
- (5) Quality sparkling wine
- "Quality sparkling wine" means the product:
- (a) which is obtained by first or second alcoholic fermentation:
 - from fresh grapes,
 - from grape must, or
 - from wine;
 - (b) which, when the container is opened, releases carbon dioxide derived exclusively from fermentation;
 - (c) which has an excess pressure, due to carbon dioxide in solution, of not less than 3,5 bar when kept at a temperature of 20 °C in closed containers; and
 - (d) for which the total alcoholic strength of the cuvées intended for their preparation shall not be less than 9 % volume.
- (6) Quality aromatic sparkling wine
- "Quality aromatic sparkling wine" means the quality sparkling wine:
- (a) which is obtained only by making use, when constituting the cuvée, of grape must or grape must in fermentation which is derived from specific wine grape varieties on a list to be drawn up by the Commission by means of delegated acts pursuant to Article 75(2).

Quality aromatic sparkling wines traditionally produced using wines when constituting the cuvée shall be determined by the Commission by means of delegated acts pursuant to in Article 75(2);

- (b) which has an excess pressure, due to carbon dioxide in solution, of not less than 3 bar when kept at a temperature of 20°C in closed containers;
 - (c) of which the actual alcoholic strength may not be less than 6 % volume; and
 - (d) of which the total alcoholic strength may not be less than 10 % volume.
- (7) Aerated sparkling wine
- "Aerated sparkling wine" means the product which:
- (a) is obtained from wine without a protected designation of origin or a protected geographical indication;
 - (b) releases, when the container is opened, carbon dioxide derived wholly or partially from an addition of that gas; and
 - (c) has an excess pressure, due to carbon dioxide in solution, of not less than 3 bar when kept at a temperature of 20 °C in closed containers.
- (8) Semi-sparkling wine
- "Semi-sparkling wine" means the product which:
- (a) obtained from wine, new wine still in fermentation, grape must or grape must in fermentation in so far as these products have a total alcohol strength of at least 9 % vol;
 - (b) has an actual alcoholic strength of not less than 7 % volume;
 - (c) has an excess pressure, due to endogenous carbon dioxide in solution of not less than 1 bar and not more than 2,5 bar when kept at a temperature of 20 °C in closed containers; and
 - (d) is placed in containers of 60 litres or less.
- (9) Aerated semi-sparkling wine
- "Aerated semi-sparkling wine" means the product which:
- (a) obtained from wine, new wine still in fermentation, grape must or grape must in fermentation;
 - (b) has an actual alcoholic strength of not less than 7 % volume and a total alcoholic strength of not less than 9 % volume;
 - (c) has an excess pressure of not less than 1 bar and not more than 2,5 bar when kept at a temperature of 20 °C in closed containers due to carbon dioxide in solution which has been wholly or partially added; and
 - (d) is placed in containers of 60 litres or less.
- (10) Grape must
- "Grape must" means the liquid product obtained naturally or by physical processes from fresh grapes. An actual alcoholic strength of the grape must of not more than 1 % volume is permissible.
- (11) Partially fermented grape must
- "Grape must in fermentation" means the product obtained from the fermentation of grape must which has an actual alcoholic strength of more than 1 % volume but less than three fifths of its total alcoholic strength by volume.
- (12) Partially fermented grape must extracted from raisined grapes
- "Grape must in fermentation extracted from raisined grapes" means the product obtained from the partial fermentation of grape must obtained from raisined grapes, the total sugar content of which before fermentation is at least 272 grams per litre and the natural and actual alcoholic strength of which shall not be less than 8 % volume. However, certain wines, to be determined by the Commission by means of delegated acts pursuant to Article 75(2), that meet these requirements shall not be considered to be grape must in fermentation extracted from raisined grapes.

(13) Concentrated grape must

"Concentrated grape must" means uncaramelised grape must which is obtained by partial dehydration of grape must carried out by any authorised method other than by direct heat in such a way that the figure indicated by a refractometer used in accordance with a method to be prescribed in accordance with the first subparagraph of Article 80(5) and point (d) of the first subparagraph of Article 91 at a temperature of 20 °C is not less than 50,9 %.

An actual alcoholic strength of the concentrated grape must of not more than 1 % volume is permissible.

(14) Rectified concentrated grape must

"Rectified concentrated grape must" means:

(a) the liquid uncaramelised product which:

(i) is obtained by partial dehydration of grape must carried out by any authorised method other than direct heat in such a way that the figure indicated by a refractometer used according to a method to be prescribed in accordance with the first subparagraph of Article 80(5) and point (d) of the first subparagraph of Article 91 at a temperature of 20 °C is not less than 61,7 %;

(ii) has undergone authorised treatment for de-acidification and elimination of constituents other than sugar;

(iii) has the following characteristics:

- a pH of not more than 5 at 25 Brix,
- an optical density at 425 nm for a thickness of 1 cm of not more than 0,100 in grape must concentrated at 25 Brix,
- a sucrose content undetectable by a method of analysis to be defined,
- a Folin-Ciocalteu index of not more than 6,00 at 25 Brix,
- a titratable acidity of not more than 15 millequivalents per kilogram of total sugars,
- a sulphur dioxide content of not more than 25 milligrams per kilogram of total sugars,
- a total cation content of not more than 8 milliequivalents per kilogram of total sugars,
- a conductivity at 25 Brix and 20°C of not more than 120 micro-Siemens/cm,
- a hydroxymethylfurfural content of not more than 25 milligrams per kilogram of total sugars,
- presence of mesoinositol.

(b) the solid uncaramelised product which:

(i) is obtained by crystallisation of liquid rectified concentrated grape must without the use of solvents;

(ii) has undergone authorised treatment for de-acidification and elimination of constituents other than sugar;

(iii) has the following characteristics after dilution in a solution at 25 Brix:

- a pH of not more than 7,5,
- an optical density at 425 nm for a thickness of 1 cm of not more than 0,100,
- a sucrose content undetectable by a method of analysis to be defined,
- a Folin-Ciocalteu index of not more than 6,00,
- a titratable acidity of not more than 15 millequivalents per kilogram of total sugars,
- a sulphur dioxide content of not more than 10 milligrams per kilogram of total sugars,

- a total cation content of not more than 8 millequivalents per kilogram of total sugars,
- a conductivity at 20 °C of not more than 120 micro-Siemens/cm,
- a hydroxymethylfurfural content of not more than 25 milligrams per kilogram of total sugars,
- presence of mesoinositol.

An actual alcoholic strength of the rectified concentrated grape must of not more than 1 % volume is permissible.

(15) Wine from raisined grapes

"Wine from raisined grapes" means the product which:

- (a) is produced without enrichment, from grapes left in the sun or shade for partial dehydration;
- (b) has a total alcoholic strength of at least 16 % volume and an actual alcoholic strength of at least 9 % volume; and
- (c) has a natural alcoholic strength of at least 16 % volume (or 272 grams sugar/litre).

(16) Wine of overripe grapes

"Wine of overripe grapes" means the product which:

- (a) is produced without enrichment;
- (b) has a natural alcoholic strength of more than 15 % volume; and
- (c) has a total alcoholic strength of not less than 15 % volume and an actual alcoholic strength of not less than 12 % volume.

Member States may prescribe a period of ageing for this product.

(17) Wine vinegar

"Wine vinegar" means vinegar which:

- (a) is obtained exclusively by acetous fermentation of wine; and
- (b) has a total acidity of not less than 60 grams per litre expressed as acetic acid.

PART III

Milk and milk products

1. "Milk" means exclusively the normal mammary secretion obtained from one or more milkings without either addition thereto or extraction therefrom.

However, the term "milk" may be used:

- (a) for milk treated without altering its composition or for milk the fat content of which is standardised under Part IV;
- (b) in association with a word or words to designate the type, grade, origin and/or intended use of such milk or to describe the physical treatment or the modification in composition to which it has been subjected, provided that the modification is restricted to an addition and/or withdrawal of natural milk constituents.

2. For the purposes of this Part, "milk products" means products derived exclusively from milk, on the understanding that substances necessary for their manufacture may be added provided that those substances are not used for the purpose of replacing, in whole or in part, any milk constituent.

The following shall be reserved exclusively for milk products.

(a) the following names used at all stages of marketing:

- (i) whey,
- (ii) cream,
- (iii) butter,
- (iv) buttermilk,
- (v) butteroil,
- (vi) caseins,
- (vii) anhydrous milk fat (AMF),
- (viii) cheese,
- (ix) yogurt,
- (x) kephir,
- (xi) koumiss,
- (xii) viili/fil,
- (xiii) smetana,
- (xiv) fil;
- (xv) rjaženka,
- (xvi) rūgušpiens;

(b) names within the meaning of Article 5 of Directive 2000/13/EC or Article 17 of Regulation (EU) No 1169/2011 actually used for milk products.

3. The term 'milk' and the designations used for milk products may also be used in association with a word or words to designate composite products of which no part takes or is intended to take the place of any milk constituent and of which milk or a milk product is an essential part either in terms of quantity or for characterisation of the product.
4. As regards milk, the animal species from which the milk originates shall be stated, if it is not bovine.
5. The designations referred to in points 1, 2 and 3 may not be used for any product other than those referred to in that point.

However, this provision shall not apply to the designation of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product.

6. In respect of a product other than those described in points 1, 2 and 3 of this Part, no label, commercial document, publicity material or any form of advertising as defined in Article 2 of Council Directive 2006/114/EC⁽¹⁾ or any form of presentation may be used which claims, implies or suggests that the product is a dairy product.

However, in respect of a product which contains milk or milk products, the designation 'milk' or the designations referred to in the second subparagraph of points 2 of this Part may be used only to describe the basic raw materials and to list the ingredients in accordance with Directive 2000/13/EC or Regulation (EU) No 1169/2011.

⁽¹⁾ Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21).

PART IV

Milk for human consumption falling within CN code 0401

I. Definitions

For the purposes of this Part:

- (a) 'milk' means the produce of the milking of one or more cows;
- (b) 'drinking milk' means the products referred to in point III intended for delivery without further processing to the consumer;
- (c) 'fat content' means the ratio by mass of parts of milk fat per hundred parts of milk in the milk concerned;
- (d) 'protein content' means the ratio by mass of parts of protein per hundred parts of milk in the milk concerned (obtained by multiplying by 6,38 the total nitrogen content of the milk expressed as a percentage by mass).

II. Delivery or sale to the final consumer

- 1. Only milk complying with the requirements laid down for drinking milk may be delivered or sold without processing to the final consumer, either directly or through the intermediary of restaurants, hospitals, canteens or other similar mass caterers.
- 2. The sales descriptions to be used for those products shall be those given in point III. Those descriptions shall be used only for the products referred to in that point, without prejudice to their use in composite descriptions.
- 3. Member States shall adopt measures to inform consumers of the nature and composition of the products concerned where the absence of such information is likely to cause confusion.

III. Drinking milk

- 1. The following products shall be considered to be drinking milk:

- (a) raw milk: milk which has not been heated above 40 °C or subjected to treatment having equivalent effect;
- (b) whole milk: heat-treated milk which, with respect to fat content, meets one of the following requirements:
 - (i) standardised whole milk: milk with a fat content of at least 3,50 % (m/m). However, Member States may provide for an additional category of whole milk with a fat content of 4,00 % (m/m) or above;
 - (ii) non-standardised whole milk: milk with a fat content that has not been altered since the milking stage either by the addition or removal of milk fats or by mixture with milk the natural fat content of which has been altered. However, the fat content may not be less than 3,50 % (m/m);
- (c) semi-skimmed milk: heat-treated milk whose fat content has been reduced to at least 1,50 % (m/m) and at most 1,80 % (m/m);
- (d) skimmed-milk: heat-treated milk whose fat content has been reduced to not more than 0,50 % (m/m).

Heat-treated milk not complying with the fat content requirements laid down in points (b), (c) and (d) of the first subparagraph shall be considered to be drinking milk provided that the fat content is clearly indicated with one decimal and easily readable on the packaging in form of "... % fat". Such milk shall not be described as whole milk, semi-skimmed milk or skimmed milk.

- 2. Without prejudice to point 1(b)(ii), only the following modifications shall be allowed:

- (a) in order to meet the fat contents laid down for drinking milk, modification of the natural fat content by the removal or addition of cream or the addition of whole milk, semi-skimmed milk or skimmed milk;

- (b) enrichment of milk with milk proteins, mineral salts or vitamins, in accordance with Regulation (EC) No 1925/2006 of the European Parliament and of the Council ⁽¹⁾;
- (c) reduction of the lactose content by conversion to glucose and galactose.

Modifications in the composition of milk referred to in points (b) and (c) shall be allowed only if they are indelibly indicated on the packing of the product so that it can be easily seen and read. However, such indication shall not remove the obligation as regards nutrition labelling laid down by Regulation (EU) No 1169/2011. Where proteins are added, the protein content of the enriched milk must be 3,8 % (m/m) or more.

However, Member States may limit or prohibit modifications to the composition of milk referred to in points (b) and (c).

3. Drinking milk shall:

- (a) have a freezing point close to the average freezing point for raw milk recorded in the area of origin of the drinking milk collected;
- (b) have a mass of not less than 1 028 grams per litre for milk containing 3,5 % (m/m) of fat at a temperature of 20 °C or the equivalent weight per litre for milk having a different fat content;
- (c) contain a minimum of 2,9 % (m/m) of protein for milk containing 3,5 % (m/m) of fat or an equivalent concentration in the case of milk having a different fat content.

PART V

Products of the poultrymeat sector

I. This Part shall apply in relation to the marketing within the Union by way of business or trade, of certain types and presentations of poultrymeat, and poultrymeat or poultry offal preparations and products, of the following species

- *Gallus domesticus*,
- ducks,
- geese,
- turkeys,
- guinea fowls.

These provisions shall also apply to poultrymeat in brine falling within CN code 0210 99 39.

II. Definitions

- (1) "poultrymeat" means poultrymeat suitable for human consumption, which has not undergone any treatment other than cold treatment;
- (2) "fresh poultrymeat" means poultrymeat which has not been stiffened at any time by the cooling process prior to being kept at a temperature not below – 2 °C and not higher than + 4 °C. However, Member States may lay down slightly different temperature requirements for the minimum length of time necessary for the cutting and handling of fresh poultrymeat performed in retail shops or in premises adjacent to sales points, where the cutting and handling are performed solely for the purpose of supplying the consumer directly on the spot;
- (3) "frozen poultrymeat" means poultrymeat which must be frozen as soon as possible within the constraints of normal slaughtering procedures and is to be kept at a temperature no higher than – 12 °C at any time;
- (4) "quick-frozen poultrymeat" means poultrymeat which is to be kept at a temperature no higher than – 18 °C at any time within the tolerances as provided for in Council Directive 89/108/EEC ⁽²⁾;

⁽¹⁾ Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods (OJ L 404, 30.12.2006, p. 26).

⁽²⁾ Council Directive 89/108/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption (OJ L 40, 11.2.1999, p. 34).

(5) "poultrymeat preparation" means poultrymeat including poultrymeat that has been reduced to fragments, which has had foodstuffs, seasonings or additives added to it or which has undergone processes insufficient to modify the internal muscle fibre structure of the meat;

(6) "fresh poultrymeat preparation" means a poultrymeat preparation for which fresh poultrymeat has been used.

However, Member States may lay down slightly different temperature requirements to be applied for the minimum length of time necessary and only to the extent necessary to facilitate the cutting and handling performed in the factory during the production of fresh poultrymeat preparations;

(7) "poultrymeat product" means a meat product as defined in point 7.1 of Annex I to Regulation (EC) No 853/2004 for which poultrymeat has been used.

III. Poultrymeat and poultrymeat preparations shall be marketed in one of the following conditions:

- fresh,
- frozen,
- quick-frozen.

PART VI

Eggs of hens of the *Gallus gallus* species

I. Scope

1. Without prejudice to Article 75 concerning the marketing standards of eggs for hatching and of farmyard poultry chicks, this Part shall apply in relation to the marketing within the Union of the eggs produced in the Union, imported from third countries or intended for export outside the Union.
2. Member States may exempt from the requirements provided for in this Part, with the exception of point III(3), eggs sold directly to the final consumer by the producer:
 - (a) on the production site, or
 - (b) in a local public market or by door-to-door selling in the region of production of the Member State concerned.

Where such exemption is granted, each producer shall be able to choose whether to apply such exemption or not. Where this exemption is applied, no quality and weight grading may be used.

The Member State may establish, in accordance with their national law, the definition of the terms 'local public market', 'door-to-door selling' and 'region of production'.

II. Quality and weight grading

1. Eggs shall be graded by quality as follows:
 - (a) Class A or "fresh";
 - (b) Class B.
2. Class A eggs shall also be graded by weight. However, grading by weight shall not be required for eggs delivered to the food and non-food industry.
3. Class B eggs shall only be delivered to the food and non-food industry.

III. Marking of eggs

1. Class A eggs shall be marked with the producer code.

Class B eggs shall be marked with the producer code and/or with another indication.

Member States may exempt Class B eggs from this requirement where those eggs are marketed exclusively on their territory.

2. The marking of eggs in accordance with point 1 shall take place at the production site or at the first packing centre to which eggs are delivered.
3. Eggs sold by the producer to the final consumer on a local public market in the region of production of the Member State concerned shall be marked in accordance with point 1.

However, Member States may exempt from this requirement producers with up to 50 laying hens, provided that the name and address of the producer are indicated at the point of sale.

PART VII

Spreadable fats

I. Sales description

The products referred to in point (f) of Article 78(1) may not be supplied or transferred without processing to the ultimate consumer either directly or through restaurants, hospitals, canteens or similar establishments, unless they fulfil the requirements set out in the Appendix II.

The sales descriptions of these products shall be those specified in Appendix II without prejudice to point II(2), (3) and (4).

The sales descriptions in Appendix II shall be reserved to the products defined therein with the following CN codes and having a fat content of at least 10 % but less than 90 % by weight:

- (a) milk fats falling within CN codes 0405 and ex 2106;
- (b) fats falling within CN code ex 1517;
- (c) fats composed of plant and/or animal products falling within CN codes ex 1517 and ex 2106.

The fat content excluding salt shall be at least two-thirds of the dry matter.

However, those sales descriptions shall only apply to products which remain solid at a temperature of 20 °C and which are suitable for use as spreads.

These definitions shall not apply to:

- (a) the designation of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product;
- (b) concentrated products (butter, margarine, blends) with a fat content of 90 % or more.

II. Terminology

1. The term "traditional" may be used together with the name "butter" provided for in point 1 of part A of Appendix II, where the product is obtained directly from milk or cream.

For the purposes of this point, "cream" means the product obtained from milk in the form of an emulsion of the oil-in-water type with a milk-fat content of at least 10 %.

2. Terms for products referred to in Appendix II which state, imply or suggest fat content other than those referred to in that Appendix shall be prohibited.
3. By way of derogation from paragraph 2 and in addition, the term "reduced-fat" or "light" may be used for products referred to in Appendix II with a fat content of not more than 62 %.

The term "reduced-fat" and the term "light" may, however, replace the terms "three-quarter-fat" or "half-fat" used in Appendix II.

4. The sales descriptions "minarine" or "halvarine" may be used for products referred to in point 3 of Part B of Appendix II.

5. The term "vegetable" may be used together with the sales descriptions in Part B of Appendix II, provided that the product contains only fat of vegetable origin with a tolerance of 2 % of the fat content for animal fats. This tolerance shall also apply where reference is made to a vegetable species.

PART VIII

Descriptions and definitions of olive oil and olive pomace oils

The use of the descriptions and definitions of olive oils and olive pomace oils set out in this Part shall be compulsory as regards the marketing of the products concerned within the Union and, insofar as compatible with international compulsory rules, in trade with third countries.

Only oils referred to in points 1(a) and (b), 3 and 6 may be marketed at the retail stage.

(1) VIRGIN OLIVE OILS

"Virgin olive oils" mean oils obtained from the fruit of the olive tree solely by mechanical or other physical means under conditions that do not lead to alterations in the oil, which have not undergone any treatment other than washing, decantation, centrifugation or filtration, to the exclusion of oils obtained using solvents or using adjuvants having a chemical or biochemical action, or by re-esterification process and any mixture with oils of other kinds.

Virgin olive oils are exclusively classified and described as follows:

(a) Extra virgin olive oil

"Extra virgin olive oil" means virgin olive oil having a maximum free acidity in terms of oleic acid, of 0,8 g per 100 g, the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

(b) Virgin olive oil

"Virgin olive oil" means virgin olive oil having a maximum free acidity in terms of oleic acid, of 2 g per 100 g, the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

(c) Lampante olive oil

"Lampante olive oil" means virgin olive oil having a free acidity in terms of oleic acid, of more than 2 g per 100 g, and/or the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

(2) REFINED OLIVE OIL

"Refined olive oil" means olive oil obtained by refining virgin olive oil, having a free acidity content, expressed as oleic acid, of not more than 0,3 g per 100 g, and the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

(3) OLIVE OIL — COMPOSED OF REFINED OLIVE OILS AND VIRGIN OLIVE OILS

"Olive oils composed of refined olive oils and virgin olive oils" means olive oil obtained by blending refined olive oil and virgin olive oil other than lampante olive oil, having a free acidity content, expressed as oleic acid, of not more than 1 g per 100 g, and the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

(4) CRUDE OLIVE-POMACE OIL

"Crude olive-pomace oil" means oil obtained from olive pomace by treatment with solvents or by physical means or oil corresponding to lampante olive oil, except for certain specified characteristics, excluding oil obtained by means of re-esterification and mixtures with other types of oils, and the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

(5) REFINED OLIVE-POMACE OIL

"Refined olive-pomace oil" means oil obtained by refining crude olive-pomace oil, having free acidity content, expressed as oleic acid, of not more than 0,3 g per 100 g, and the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

(6) OLIVE-POMACE OIL

"Olive-pomace oil" means oil obtained by blending refined olive-pomace oil and virgin olive oil other than lampante olive oil, having a free acidity content, expressed as oleic acid, of not more than 1 g per 100 g, and the other characteristics of which comply with those laid down by the Commission in accordance with Article 75(2) for this category.

Appendix I

Wine-growing zones

The wine-growing zones shall be the following:

(1) Wine-growing zone A comprises:

- (a) in Germany: the areas planted with vines other than those included in point 2(a);
- (b) in Luxembourg: the Luxembourg wine-growing region;
- (c) in Belgium, Denmark, Ireland, the Netherlands, Poland, Sweden and the United Kingdom: the wine-growing areas of these Member States;
- (d) in the Czech Republic: the wine growing region of Čechy.

(2) Wine-growing zone B comprises:

- (a) in Germany, the areas planted with vines in the specified region Baden;
- (b) in France, the areas planted with vines in the departments not mentioned in this Annex and in the following departments:
 - in Alsace: Bas-Rhin, Haut-Rhin,
 - in Lorraine: Meurthe-et-Moselle, Meuse, Moselle, Vosges,
 - in Champagne: Aisne, Aube, Marne, Haute-Marne, Seine-et-Marne,
 - in the Jura: Ain, Doubs, Jura, Haute-Saône,
 - in Savoie: Savoie, Haute-Savoie, Isère (commune de Chapareillan),
 - in the Val de Loire: Cher, Deux-Sèvres, Indre, Indre-et-Loire, Loir-et-Cher, Loire-Atlantique, Loiret, Maine-et-Loire, Sarthe, Vendée, Vienne, and the areas planted with vines in the arrondissement of Cosne-sur-Loire in the department of Nièvre;
- (c) in Austria, the Austrian wine-growing area;
- (d) in the Czech Republic, the wine-growing region of Morava and the areas planted with vines not included in point 1(d);
- (e) in Slovakia, the areas planted with vines in the following regions: Malokarpatská vinohradnícka oblasť, Južnoslovenská vinohradnícka oblasť, Nitrianska vinohradnícka oblasť, Stredoslovenská vinohradnícka oblasť, Východoslovenská vinohradnícka oblasť and the wine growing areas not included in point 3(f);
- (f) in Slovenia, the areas planted with vines in the following regions:
 - in the Podravje region: Štajerska Slovenija, Prekmurje,
 - in the Posavje region: Bizeljsko Sremič, Dolenjska and Bela krajina, and the areas planted with vines in the regions not included in point 4(d);
- (g) in Romania, in the area of Podişul Transilvaniei;
- (h) in Croatia, the areas planted with vines in the following sub-regions: Moslavina, Prigorje-Bilogora, Plešivica, Pokuplje and Zagorje-Međimurje.

(3) Wine-growing zone C I comprises:

- (a) in France, areas planted with vines:
 - in the following departments: Allier, Alpes-de-Haute-Provence, Hautes-Alpes, Alpes-Maritimes, Ariège, Aveyron, Cantal, Charente, Charente-Maritime, Corrèze, Côte-d'Or, Dordogne, Haute-Garonne, Gers, Gironde, Isère (with the exception of the commune of Chapareillan), Landes, Loire, Haute-Loire, Lot, Lot-et-Garonne, Lozère, Nièvre (except for the arrondissement of Cosne-sur-Loire), Puy-de-Dôme, Pyrénées-Atlantiques, Hautes-Pyrénées, Rhône, Saône-et-Loire, Tarn, Tarn-et-Garonne, Haute-Vienne, Yonne,

- in the arrondissements of Valence and Die in the department of Drôme (except for the cantons of Dieulefit, Loriol, Marsanne and Montélimar),
 - in the arrondissement of Tournon, in the cantons of Antraigues, Burzet, Coucouron, Montpezat-sous-Bauzon, Privas, Saint-Etienne de Lugdarès, Saint-Pierreville, Valgorge and la Voulte-sur-Rhône of the department of Ardèche;
- (b) in Italy, areas planted with vines in the Valle d'Aosta region and in the provinces of Sondrio, Bolzano, Trento and Belluno;
- (c) in Spain, areas planted with vines in the provinces of A Coruña, Asturias, Cantabria, Guipúzcoa and Vizcaya;
- (d) in Portugal, areas planted with vines in that part of the region of Norte which corresponds to the designated wine area of 'Vinho Verde' as well as the "Concelhos de Bombarral, Lourinhã, Mafra e Torres Vedras" (with the exception of "Freguesias da Carvoeira e Dois Portos"), belonging to the 'Região vitícola da Extremadura';
- (e) in Hungary, all areas planted with vines;
- (f) in Slovakia, areas planted with vines in the Tokajská vinohradnícka oblasť;
- (g) in Romania, areas planted with vines not included in point 2(g) or 4(f);
- (h) in Croatia, areas planted with vines in the following sub-regions: Hrvatsko Podunavlje and Slavonija.
- (4) Wine-growing zone C II comprises:
- (a) in France, areas planted with vines:
- in the following departments: Aude, Bouches-du-Rhône, Gard, Hérault, Pyrénées-Orientales (except for the cantons of Olette and Arles-sur-Tech), Vaucluse,
 - in the part of the department of Var bounded in the south by the northern limit of the communes of Evenos, Le Beausset, Solliès-Toucas, Cuers, Puget-Ville, Collobrières, La Garde-Freinet, Plan-de-la-Tour and Sainte-Maxime,
 - in the arrondissement of Nyons and the canton of Loriol-sur-Drôme in the department of Drôme,
 - in those parts of the department of Ardèche not listed in point 3(a);
- (b) in Italy, areas planted with vines in the following regions: Abruzzo, Campania, Emilia-Romagna, Friuli-Venezia Giulia, Lazio, Liguria, Lombardy (except for the province of Sondrio), Marche, Molise, Piedmont, Tuscany, Umbria, Veneto (except for the province of Belluno), including the islands belonging to those regions, such as Elba and the other islands of the Tuscan archipelago, the Ponziante islands, Capri and Ischia;
- (c) in Spain, areas planted with vines in the following provinces:
- Lugo, Orense, Pontevedra,
 - Ávila (except for the communes which correspond to the designated wine 'comarca' of Cebreros), Burgos, León, Palencia, Salamanca, Segovia, Soria, Valladolid, Zamora,
 - La Rioja,
 - Álava,
 - Navarra,
 - Huesca,
 - Barcelona, Girona, Lleida,
 - in that part of the province of Zaragoza which lies to the north of the river Ebro,
 - in those communes of the province of Tarragona included in the Penedés designation of origin,

- in that part of the province of Tarragona which corresponds to the designated wine 'comarca' of Conca de Barberá;
 - (d) in Slovenia, areas planted with vines in the following regions: Brda or Goriška Brda, Vipavska dolina or Vipava, Kras and Slovenska Istra;
 - (e) in Bulgaria, areas planted with vines in the following regions: Dunavska Ravnina (Дунавска равнина), Chernomorski Rayon (Черноморски район), Rozova Dolina (Розова долина);
 - (f) in Romania, areas planted with vines in the following regions:

Dealurile Buzăului, Dealu Mare, Severinului and Plaiurile Drâncei, Colinele Dobrogei, Terasele Dunării, the South wine region, including sands and other favourable regions;
 - (g) in Croatia, areas planted with vines in the following sub-regions: Hrvatska Istra, Hrvatsko primorje, Dalmatinska zagora, Sjeverna Dalmacija and Srednja i Južna Dalmacija.
- (5) Wine-growing zone C III (a) comprises:
- (a) in Greece, areas planted with vines in the following nomoi: Florina, Imathia, Kilkis, Grevena, Larisa, Ioannina, Levkas, Akhaia, Messinia, Arkadia, Korinthia, Iraklio, Khania, Rethimni, Samos, Lasithi and the island of Thira (Santorini);
 - (b) in Cyprus, areas planted with vines located at altitudes exceeding 600 metres;
 - (c) in Bulgaria, areas planted with vines not included in point 4(e).
- (6) Wine-growing zone C III (b) comprises:
- (a) in France, areas planted with vines:
 - in the departments of Corsica,
 - in that part of the department of Var situated between the sea and a line bounded by the communes (which are themselves included) of Evenos, Le Beausset, Solliès-Toucas, Cuers, Puget-Ville, Collobrières, La Garde-Freinet, Plan-de-la-Tour and Sainte-Maxime,
 - in the cantons of Olette and Arles-sur-Tech in the department of Pyrénées-Orientales;
 - (b) in Italy, areas planted with vines in the following regions: Calabria, Basilicata, Apulia, Sardinia and Sicily, including the islands belonging to those regions, such as Pantelleria and the Lipari, Egadi and Pelagian islands;
 - (c) in Greece, areas planted with vines not listed in point 5(a);
 - (d) in Spain: areas planted with vines not included in points 3(c) or 4(c);
 - (e) in Portugal, areas planted with vines in the regions not included in point 3(d);
 - (f) in Cyprus, areas planted with vines located at altitudes not exceeding 600 metres;
 - (g) in Malta, areas planted with vines.
- (7) The demarcation of the territories covered by the administrative units referred to in this Annex is that resulting from the national provisions in force on 15 December 1981 and, for Spain, from the national provisions in force on 1 March 1986 and, for Portugal, from the national provisions in force on 1 March 1998.
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Appendix II

Spreadable fats

Fat group	Sales description	Product categories
Definitions		Additional description of the category with an indication of the % fat content by weight
<p>A. Milk fats</p> <p>Products in the form of a solid, malleable emulsion, principally of the water-in-oil type, derived exclusively from milk and/or certain milk products, for which the fat is the essential constituent of value. However, other substances necessary for their manufacture may be added, provided those substances are not used for the purpose of replacing, either in whole or in part, any milk constituents.</p>	1. Butter	The product with a milk-fat content of not less than 80 % but less than 90 %, a maximum water content of 16 % and a maximum dry non-fat milk-material content of 2 %.
	2. Three-quarter fat butter (*)	The product with a milk-fat content of not less than 60 % but not more than 62 %.
	3. Half fat butter (**)	The product with a milk-fat content of not less than 39 % but not more than 41 %.
	4. Dairy spread X %	The product with the following milk-fat contents: — less than 39 %, — more than 41 % but less than 60 %, — more than 62 % but less than 80 %.
<p>B. Fats</p> <p>Products in the form of a solid, malleable emulsion, principally of the water-in-oil type, derived from solid and/or liquid vegetable and/or animal fats suitable for human consumption, with a milk-fat content of not more than 3 % or the fat content.</p>	1. Margarine	The product obtained from vegetable and/or animal fats with a fat content of not less than 80 % but less than 90 %.
	2. Three-quarter-fat margarine (***)	The product obtained from vegetable and/or animal fats with a fat content of not less than 60 % but not more than 62 %.
	3. Half-fat margarine (****)	The product obtained from vegetable and/or animal fats with a fat content of not less than 39 % but not more than 41 %.
	4. Fat spreads X %	The product obtained from vegetable and/or animal fats with the following fat contents: — less than 39 %, — more than 41 % but less than 60 %, — more than 62 % but less than 80 %.
<p>C. Fats composed of plant and/or animal products</p> <p>Products in the form of a solid, malleable emulsion principally of the water-in-oil type, derived from solid and/or liquid vegetable and/or animal fats suitable for human consumption, with a milk-fat content of between 10 % and 80 % of the fat content.</p>	1. Blend	The product obtained from a mixture of vegetable and/or animal fats with a fat content of not less than 80 % but less than 90 %.
	2. Three-quarter-fat blend (*****)	The product obtained from a mixture of vegetable and/or animal fats with a fat content of not less than 60 % but not more than 62 %.
	3. Half-fat blend (*****)	The product obtained from a mixture of vegetable and/or animal fats with a fat content of not less than 39 % but not more than 41 %.

Fat group	Sales description	Product categories
Definitions		Additional description of the category with an indication of the % fat content by weight
	4. Blended spread X %	The product obtained from a mixture of vegetable and/or animal fats with the following fat contents: — less than 39 %, — more than 41 % but less than 60 %, — more than 62 % but less than 80 %.

(*) corresponding to 'smør 60' in Danish.

(**) corresponding to 'smør 40' in Danish.

(***) corresponding to 'margarine 60' in Danish.

(****) corresponding to 'margarine 40' in Danish.

(*****) corresponding to 'blandingsprodukt 60' in Danish.

(*****) corresponding to 'blandingsprodukt 40' in Danish.

ANNEX VIII

OENOLOGICAL PRACTICES REFERRED TO IN ARTICLE 80

PART I

Enrichment, acidification and de-acidification in certain wine-growing zones**A. Enrichment limits**

1. Where climatic conditions have made it necessary in certain wine-growing zones of the Union, the Member States concerned may allow to supplement the natural alcoholic strength by volume of fresh grapes, grape must, grape must in fermentation, new wine still in fermentation and wine obtained from wine grape varieties classifiable according to Article 81.
2. The increase in natural alcoholic strength by volume shall be achieved by means of the oenological practices referred to in Section B and shall not exceed the following limits:
 - (a) 3 % volume in wine-growing zone A;
 - (b) 2 % volume in wine-growing zone B;
 - (c) 1,5 % volume in wine-growing zones C.
3. In years when climatic conditions have been exceptionally unfavourable, Member States may request that the limit(s) laid down in point 2 be raised by 0,5 %. In response to such a request, the Commission under the powers as referred to in Article 91 shall adopt the implementing act as soon as possible. The Commission shall endeavour to take a decision within four weeks after the request has been submitted.

B. Enrichment processes

1. The increase in natural alcoholic strength by volume provided for in Section A shall only be effected:
 - (a) in respect of fresh grapes, grape must in fermentation or new wine still in fermentation, by adding sucrose, concentrated grape must or rectified concentrated grape must;
 - (b) in respect of grape must, by adding sucrose, concentrated grape must or rectified concentrated grape must, or by partial concentration, including reverse osmosis;
 - (c) in respect of wine, by partial concentration through cooling.
2. The processes referred to in point 1 shall be mutually exclusive where wine or grape must is enriched with concentrated grape must or rectified concentrated grape must and an aid has been paid under Article 103y of Regulation (EC) No 1234/2007.
3. The addition of sucrose provided for in points 1(a) and (b) may only be performed by dry sugaring and only in the following areas:
 - (a) wine-growing zone A;
 - (b) wine-growing zone B;
 - (c) wine-growing zone C,

with the exception of vineyards in Greece, Spain, Italy, Cyprus, Portugal and vineyards in the French departments under jurisdiction of the courts of appeal of:

- Aix-en-Provence,
- Nîmes,
- Montpellier,
- Toulouse,
- Agen,

- Pau,
- Bordeaux,
- Bastia.

However, enrichment by dry sugaring may be authorised by the national authorities as an exception in the above-mentioned French departments. France shall notify the Commission and the other Member States forthwith of any such authorisations.

4. The addition of concentrated grape must or rectified concentrated grape must shall not have the effect of increasing the initial volume of fresh crushed grapes, grape must, grape must in fermentation or new wine still in fermentation by more than 11 % in wine-growing zone A, 8 % in wine-growing zone B and 6,5 % in wine-growing zone C.
5. The concentration of grape must or of wine subjected to the processes referred to in point 1:
 - (a) shall not have the effect of reducing the initial volume of these products by more than 20 %;
 - (b) shall, notwithstanding point 2(c) of Section A, not increase the natural alcoholic strength of these products by more than 2 % volume.
6. The processes referred to in points 1 and 5 shall not raise the total alcoholic strength by volume of the fresh grapes, grape must, grape must in fermentation, new wine still in fermentation, or wine:
 - (a) in wine-growing zone A to more than 11,5 % volume;
 - (b) in wine-growing zone B to more than 12 % volume;
 - (c) in wine-growing zone C I to more than 12,5 % volume;
 - (d) in wine-growing zone C II to more than 13 % volume; and
 - (e) in wine-growing zone C III to more than 13,5 % volume.
7. By way of derogation from point 6, Member States may:
 - (a) in relation to red wine, raise the upper limit of total alcoholic strength by volume of the products referred to in point 6 to 12 % volume in wine-growing zone A and 12,5 % volume in wine-growing zone B;
 - (b) raise the total alcoholic strength by volume of the products referred to in point 6 for the production of wines with a designation of origin to a level to be determined by Member States.

C. Acidification and de-acidification

1. Fresh grapes, grape must, grape must in fermentation, new wine still in fermentation and wine may be subject to:
 - (a) de-acidification in wine-growing zones A, B and C I;
 - (b) acidification and de-acidification in wine-growing zones C I, C II and C III (a), without prejudice to point 7; or
 - (c) acidification in wine-growing zone C III (b).
2. Acidification of the products, other than wine, referred to in point 1 may be carried out only up to a limit of 1,50 g/l expressed as tartaric acid, or 20 milliequivalents per litre.
3. Acidification of wines may be carried out only up to a limit of 2,50 g/l expressed as tartaric acid, or 33,3 milliequivalents per litre.
4. De-acidification of wines may be carried out only up to a limit of 1 g/l expressed as tartaric acid, or 13,3 milliequivalents per litre.
5. Grape must intended for concentration may be partially de-acidified.

6. Notwithstanding point 1, in years when climatic conditions have been exceptional, Member States may authorise acidification of the products referred to in point 1 in wine-growing zones A and B, under the conditions referred to in points 2 and 3.
7. Acidification and enrichment, except by way of derogation to be adopted by the Commission by means of delegated acts pursuant to Article 75(2), and acidification and de-acidification of one and the same product shall be mutually exclusive processes.

D. Processes

1. None of the processes referred to in Sections B and C, with the exception of the acidification and de-acidification of wines, shall be authorised unless carried out, under conditions to be determined by the Commission by means of delegated acts pursuant to Article 75(2), at the time when the fresh grapes, grape must, grape must in fermentation or new wine still in fermentation are being turned into wine or into any other wine sector beverage intended for direct human consumption other than sparkling wine or aerated sparkling wine in the wine-growing zone where the fresh grapes used were harvested.
2. The concentration of wines shall take place in the wine-growing zone where the fresh grapes used were harvested.
3. Acidification and de-acidification of wines shall take place only in the wine-making undertaking and in the wine-growing zone where the grapes used to produce the wine in question were harvested.
4. Each of the processes referred to in points 1, 2 and 3 shall be notified to the competent authorities. The same shall apply in respect of the quantities of concentrated grape must rectified concentrated grape must or sucrose held in the exercise of their profession by natural or legal persons or groups of persons, in particular producers, bottlers, processors and merchants to be determined by the Commission by means of delegated acts pursuant to Article 75(2), at the same time and in the same place as fresh grapes, grape must, grape must in fermentation or wine in bulk. The notification of these quantities may, however, be replaced by entry in a goods inwards and stock utilisation register.
5. Each of the processes referred to in Sections B and C shall be recorded on the accompanying document, as provided for in Article 147, under cover of which the products having undergone the processes are put into circulation.
6. The processes referred to in Sections B and C, subject to derogations justified by exceptional climatic conditions, shall not be carried out:
 - (a) in wine-growing zone C after 1 January;
 - (b) in wine-growing zones A and B after 16 March, and they shall be carried out only for products of the grape harvest immediately preceding those dates.
7. Notwithstanding point 6, concentration by cooling and acidification and de-acidification of wines may be practised throughout the year.

PART II

Restrictions

A. General

1. All authorised oenological practices shall exclude the addition of water, except where required on account of a specific technical necessity.
2. All authorised oenological practices shall exclude the addition of alcohol, except for practices related to obtaining fresh grape must with fermentation arrested by the addition of alcohol, liqueur wine, sparkling wine, wine fortified for distillation and semi-sparkling wine.
3. Wine fortified for distillation shall only be used for distillation.

B. Fresh grapes, grape must and grape juice

1. Fresh grape must in which fermentation is arrested by the addition of alcohol shall be used only during the stage of preparation of products which do not fall within CN codes 2204 10, 2204 21 and 2204 29. This is without prejudice to any stricter provisions which Member States may apply to the preparation in their territory of products which do not fall within CN codes 2204 10, 2204 21 and 2204 29.
2. Grape juice and concentrated grape juice shall not be made into wine or added to wine. They shall not undergo alcoholic fermentation in the territory of the Union.

3. Points 1 and 2 shall not apply to products intended for the production, in Ireland, Poland and the United Kingdom, of products falling within CN code 2206 00 for which Member States may allow the use of a composite name, including the sales designation 'wine'.
4. Grape must in fermentation extracted from raisined grapes shall be put on the market only for the manufacture of liqueur wines only in the wine-growing regions where this usage was traditional on 1 January 1985, and for the manufacture of wine of overripe grapes.
5. Fresh grapes, grape must, grape must in fermentation, concentrated grape must, rectified concentrated grape must, grape must with fermentation arrested by the addition of alcohol, grape juice, concentrated grape juice and wine, or mixtures of those products, originating in third countries, may not be turned into products referred to in Part II of Annex VII or added to such products in the territory of the Union.

C. Blending of wines

Coupage of a wine originating in a third country with a Union wine and coupage between wines originating in third countries shall be prohibited in the Union.

D. By-products

1. The over-pressing of grapes shall be prohibited. Member States shall decide, taking account of local and technical conditions, the minimum quantity of alcohol that shall be contained in the marc and the lees after the pressing of grapes.

The quantity of alcohol contained in those by-products shall be decided by Member States at a level at least equal to 5 % in relation to the volume of alcohol contained in the wine produced.

2. Except for alcohol, spirits and piquette, wine or any other beverage intended for direct human consumption shall not be produced from wine lees or grape marc. The pouring of wine onto lees or grape marc or pressed aszú pulp shall be allowed under conditions to be determined by the Commission by means of delegated acts pursuant to Article 75(2) where this practice is traditionally used for the production of 'Tokaji fordítás' and 'Tokaji máslás' in Hungary and 'Tokajský fordítás' and 'Tokajský máslás' in Slovakia.
 3. The pressing of wine lees and the re-fermentation of grape marc for purposes other than distillation or production of piquette is prohibited. The filtering and centrifuging of wine lees shall not be considered to be pressing where the products obtained are of sound, fair and marketable quality.
 4. Piquette, where its production is authorised by the Member State concerned, shall be used only for distillation or for consumption in wine-producers' households.
 5. Without prejudice to the possibility for Member States to decide to require disposal of by-products by way of distillation, any natural or legal persons or groups of persons who hold by-products shall be required to dispose of them subject to conditions to be determined by the Commission by means of delegated acts pursuant to Article 75(2).
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ANNEX IX

OPTIONAL RESERVED TERMS

Product category (reference to combined nomenclature classification)	Optional reserved term
poultrymeat (CN codes 0207 and 0210)	fed with ... % of ... oats fed goose extensive indoor / barn-reared free range traditional free range free range – total freedom age at slaughter length of fattening period
eggs (CN code 0407)	fresh extra or extra fresh indication on how laying hens are fed
olive oil (CN code 1509)	first cold pressing cold extraction acidity pungent fruity: ripe or green bitter intense medium light well-balanced mild oil

ANNEX X

PURCHASE TERMS FOR BEET DURING THE PERIOD REFERRED TO IN ARTICLE 125(3)

POINT I

1. Delivery contracts shall be made in writing for a specified quantity of beet.
2. The duration of the delivery contracts may be pluriannual.
3. Delivery contracts may specify whether an additional quantity of beet may be supplied, and under what terms.

POINT II

1. Delivery contracts shall indicate the purchase prices for the quantities of beet referred to in Point I.
2. The price referred to in paragraph 1 shall apply to sugar beet of a standard quality as defined in point B of Annex III.

The price shall be adjusted by price increases or reductions, agreed by the parties in advance, to allow for deviations from the standard quality.

3. The delivery contract shall specify how the evolution of market prices is to be allocated between the parties.
4. Delivery contracts shall lay down a fixed sugar content for beet. They shall include a conversion scale showing the different sugar contents and factors for converting the quantities of beet supplied into quantities corresponding to the sugar content shown in the delivery contract.

The scale shall be based on the yields corresponding to the different sugar contents.

POINT III

Delivery contracts shall contain provisions concerning the staggering and normal duration of beet deliveries.

POINT IV

1. Delivery contracts shall provide for beet collection places and the conditions linked to delivery and transport.
2. Delivery contracts shall provide that responsibility for loading and transport costs from the collection places are clearly stipulated. Where delivery contracts require sugar undertakings to contribute to loading and transport costs, the percentage or amounts shall be clearly stipulated.
3. Delivery contracts shall provide that the costs incumbent upon each party are clearly specified.

POINT V

1. Delivery contracts shall provide for reception points for beet.
2. Where beet sellers and sugar undertakings have already signed a delivery contract for the previous marketing year, the reception points agreed upon by them for deliveries during that marketing year shall remain in operation. Agreements within the trade may derogate from this provision.

POINT VI

1. Delivery contracts shall provide for the sugar content to be determined using the polarimetric method or, in order to take into account technological developments, another method agreed between the two parties. A sample of the beet shall be drawn at the time of reception.
2. Agreements within the trade may provide for samples to be drawn at another stage. In such cases, the delivery contract shall provide for a correction to compensate for any drop in the sugar content between the reception and the drawing of the sample.

POINT VII

Delivery contracts shall provide for the gross weight, tare and sugar content to be determined using procedures agreed:

- (a) jointly, by the sugar undertaking and the beet growers' trade organisation, if an agreement within the trade so provides;
- (b) by the sugar undertaking, under the supervision of the beet growers' trade organisation;
- (c) by the sugar undertaking, under the supervision of an expert recognised by the Member State concerned, provided the beet seller defrays the costs thereof.

POINT VIII

1. Delivery contracts shall require sugar undertakings to do one or more of the following for the whole quantity of beet delivered:
 - (a) to return the fresh pulp from the tonnage of beet delivered free of charge to the beet seller, ex-factory;
 - (b) to return part of that pulp, pressed, dried or dried and molassed, free of charge to the beet seller, ex-factory;
 - (c) to return the pulp, pressed or dried, to the beet seller, ex-factory; in this case, the sugar undertaking may require the beet seller to pay the pressing or drying costs;
 - (d) to pay the beet seller compensation which takes account of the possibilities of selling the pulp concerned.
2. When parts of the whole quantity of beet delivered are subject to different treatment, the delivery contract shall impose more than one of the obligations provided for in paragraph 1.
3. Agreements within the trade may provide for pulp to be delivered at a stage other than that referred to in points (a), (b) and (c) of paragraph 1.

POINT IX

Delivery contracts shall fix the time limits for any advance payments and for payment of the purchase price for beet.

POINT X

Where delivery contracts lay down rules covering matters which are dealt with in this Annex, or where they contain provisions governing other matters, their provisions and effects shall not conflict with this Annex.

POINT XI

1. Agreements within the trade as described in point 6 of Section A of Part II of Annex II shall contain arbitration clauses.
2. Agreements within the trade may lay down a standard template for delivery contracts compatible with this Regulation and Union rules.
3. Where agreements within the trade at Union, regional or local level lay down rules covering matters which are dealt with in this Regulation, or where they contain provisions governing other matters, their provisions and effects shall not conflict with this Annex.
4. Agreements referred to in paragraph 3 lay down, in particular:
 - (a) the conversion scale referred to in Point II(4);
 - (b) rules on the choice and supply of seeds of the varieties of beet to be produced;
 - (c) the minimum sugar content of beet to be delivered;

- (d) a requirement for consultation between the sugar undertaking and the beet sellers' representatives before the starting date of beet deliveries is fixed;
 - (e) the payment of premiums to beet sellers for early or late deliveries;
 - (f) details of the conditions and costs relating to pulp as referred to in Point VIII;
 - (g) the removal of the pulp by the beet seller;
 - (h) rules on adapting prices in cases where pluriannual contracts are agreed;
 - (i) rules on sampling and methods for determining gross weight, tare and sugar content.
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ANNEX XI

PURCHASE TERMS FOR BEET DURING THE PERIOD REFERRED TO IN ARTICLE 124

POINT I

1. Delivery contracts shall be made in writing for a specified quantity of quota beet.
2. Delivery contracts shall specify whether an additional quantity of beet may be supplied, and under what terms.

POINT II

1. Delivery contracts shall indicate the purchase prices for the quantities of beet referred to in point (a) and, if appropriate, point (b) of Article 127(2). In the case of the quantities referred to in point (a) of Article 127(2), those prices may not be lower than the minimum price for quota beet referred to in Article 135.
2. Delivery contracts shall lay down a fixed sugar content for beet. They shall include a conversion scale showing the different sugar contents and factors for converting the quantities of beet supplied into quantities corresponding to the sugar content shown in the delivery contract.

The scale shall be based on the yields corresponding to the different sugar contents.

3. Where a beet seller has signed a delivery contract with a sugar undertaking for the delivery of beet as referred to in point (a) of Article 127(2), all deliveries by that seller, converted in accordance with paragraph 2 of this Point, shall be considered to be deliveries within the meaning of point (a) of Article 127(2), up to the quantity of beet specified in the delivery contract.
4. Sugar undertakings producing a quantity of sugar lower than their quota beet for which they have signed pre-sowing delivery contracts under point (a) of Article 127(2), shall distribute the quantity of beet corresponding to any additional production up to the amount of their quota among the beet sellers with whom they have signed pre-sowing delivery contracts within the meaning of point (a) of Article 127(2).

Agreements within the trade may derogate from this provision.

POINT III

1. Delivery contracts shall contain provisions concerning the staggering and normal duration of beet deliveries.
2. Provisions referred to in paragraph 1 shall be those applicable during the previous marketing year, taking account of the level of actual production; agreements within the trade may derogate therefrom.

POINT IV

1. Delivery contracts shall provide for beet collection places.
2. Where beet sellers and sugar undertakings have already signed a delivery contract for the previous marketing year, the collection places agreed upon by them for deliveries during that marketing year shall remain in operation. Agreements within the trade may derogate from this provision.
3. Delivery contracts shall provide that loading and transport costs from the collection places are to be borne by the sugar undertaking subject to special agreements based on local rules or usages in operation before the previous marketing year.
4. However, in Denmark, Ireland, Greece, Spain, Portugal, Finland and the United Kingdom, where beet is delivered free-at-factory, delivery contracts shall require sugar undertakings to contribute to loading and transport costs and shall stipulate the percentage or amounts.

POINT V

1. Delivery contracts shall provide for reception points for beet.
2. Where beet sellers and sugar undertakings have already signed a delivery contract for the previous marketing year, the reception points agreed upon by them for deliveries during that marketing year shall remain in operation. Agreements within the trade may derogate from this provision.

POINT VI

1. Delivery contracts shall provide for the sugar content to be determined using the polarimetric method. A sample of the beet shall be drawn at the time of reception.
2. Agreements within the trade may provide for samples to be drawn at another stage. In such cases, the delivery contract shall provide for a correction to compensate for any drop in the sugar content between the reception and the drawing of the sample.

POINT VII

Delivery contracts shall provide for gross weight, tare and sugar content to be determined using one of the following procedures:

- (a) jointly, by the sugar undertaking and the beet growers' trade organisation, if an agreement within the trade so provides;
- (b) by the sugar undertaking, under the supervision of the beet growers' trade organisation;
- (c) by the sugar undertakings, under the supervision of an expert recognised by the Member State concerned, provided the beet seller defrays the costs thereof.

POINT VIII

1. Delivery contracts shall require sugar undertakings to do one or more of the following for the whole quantity of beet delivered:
 - (a) to return the fresh pulp from the tonnage of beet delivered free of charge to the beet seller, ex-factory;
 - (b) to return part of that pulp, pressed, dried or dried and molassed, free of charge to the beet seller, ex-factory;
 - (c) to return the pulp, pressed or dried, to the beet seller, ex-factory; in this case, the sugar undertaking may require the beet seller to pay the pressing or drying costs;
 - (d) to pay the beet seller compensation which takes account of the possibilities of selling the pulp concerned.
2. When parts of the whole quantity of beet delivered are subject to different treatment, the delivery contract shall impose more than one of the obligations provided for in paragraph 1.
3. Agreements within the trade may provide for pulp to be delivered at a stage other than that referred to in points (a), (b) and (c) of paragraph 1.

POINT IX

1. Delivery contracts shall fix the time limits for any advance payments and for payment of the purchase price for beet.
2. The time limits referred to in paragraph 1 shall be those valid during the previous marketing year. Agreements within the trade may derogate from this provision.

POINT X

Where delivery contracts lay down rules covering matters which are dealt with in this Annex, or where they contain provisions governing other matters, their provisions and effects shall not conflict with this Annex.

POINT XI

1. Agreements within the trade as described in point 6 of Section A of Part II of Annex II shall contain arbitration clauses.
2. Where agreements within the trade at Union, regional or local level lay down rules covering matters which are dealt with in this Regulation, or where they contain provisions governing other matters, their provisions and effects shall not conflict with this Annex.

3. Agreements referred to in paragraph 2 lay down, in particular:

- (a) rules on the distribution to beet sellers of quantities of beet which the sugar undertaking decides to buy prior to sowing, for the manufacture of sugar within the limits of the quota;
- (b) rules on distribution as referred to in Point II(4);
- (c) the conversion scale referred to in Point II(2);
- (d) rules on the choice and supply of seeds of the varieties of beet to be produced;
- (e) the minimum sugar content of beet to be delivered;
- (f) a requirement for consultation between the sugar undertaking and the beet sellers' representatives before the starting date of beet deliveries is fixed;
- (g) the payment of premiums to beet sellers for early or late deliveries;
- (h) details of:
 - (i) the part of the pulp referred to in Point VIII(1)(b),
 - (ii) the costs referred to in Point VIII(1)(c),
 - (iii) the compensation referred to in Point VIII(1)(d);
- (i) the removal of pulp by the beet seller;
- (j) without prejudice to Article 135, rules on how any difference between the reference threshold and the actual selling price of the sugar is to be allocated between the sugar undertaking and beet sellers.

POINT XII

Where there is no set agreement within the trade as to how the quantities of beet intended for the manufacture of sugar within the quota limits which the sugar undertaking offers to buy before sowing should be allocated among the beet sellers, the Member State concerned may itself lay down rules for such allocation.

Those rules may also grant to traditional sellers of beet to cooperatives delivery rights other than those which they would enjoy if they belonged to such cooperatives.

ANNEX XII

NATIONAL AND REGIONAL QUOTAS FOR THE PRODUCTION OF SUGAR, ISOGLUCOSE AND INULIN SYRUP AS REFERRED TO IN ARTICLE 136

Member States or regions (1)	(in tonnes)		
	Sugar (2)	Isoglucose (3)	Inulin syrup (4)
Belgium	676 235,0	114 580,2	0
Bulgaria	0	89 198,0	
Czech Republic	372 459,3		
Denmark	372 383,0		
Germany	2 898 255,7	56 638,2	
Ireland	0		
Greece	158 702,0	0	
Spain	498 480,2	53 810,2	
France (metropolitan)	3 004 811,15		0
French overseas departments	432 220,05		
Croatia	192 877,0		
Italy	508 379,0	32 492,5	
Latvia	0		
Lithuania	90 252,0		
Hungary	105 420,0	250 265,8	
Netherlands	804 888,0	0	0
Austria	351 027,4		
Poland	1 405 608,1	42 861,4	
Portugal (mainland)	0	12 500,0	
Autonomous Region of the Azores	9 953,0		
Romania	104 688,8	0	
Slovenia	0		
Slovakia	112 319,5	68 094,5	
Finland	80 999,0	0	
Sweden	293 186,0		
United Kingdom	1 056 474,0	0	
TOTAL	13 529 618,2	720 440,8	0

ANNEX XIII

DETAILED RULES ON TRANSFERS OF SUGAR OR ISOGLUCOSE QUOTAS IN ACCORDANCE WITH ARTICLE 138

POINT I

For the purpose of this Annex:

- (a) "merger of undertakings" means the consolidation of two or more undertakings into a single undertaking;
- (b) "transfer of an undertaking" means the transfer or absorption of the assets of an undertaking having quota to one or more undertakings;
- (c) "transfer of a factory" means the transfer of ownership of a technical unit, including all the plant required to manufacture the product concerned, to one or more undertakings, resulting in the partial or total absorption of the production of the undertaking making the transfer;
- (d) "lease of a factory" means the leasehold contract of a technical unit including all the plant required for the manufacture of sugar, with a view to its operation, concluded for a period of at least three consecutive marketing years, which the parties agree not to terminate before the end of the third marketing year, with an undertaking which is established in the same Member State as the factory concerned, if, after the lease takes effect, the undertaking which rents the factory can be considered to be a solely sugar-producing undertaking for its entire production.

POINT II

1. Without prejudice to paragraph 2, in the event of the merger or transfer of sugar-producing undertakings or the transfer of sugar factories, the quota shall be adjusted as follows:
 - (a) in the event of the merger of sugar-producing undertakings, Member States shall allocate to the undertaking resulting from the merger a quota equal to the sum of the quotas allocated prior to the merger to the sugar-producing undertakings concerned;
 - (b) in the event of the transfer of a sugar-producing undertaking, the Member State shall allocate the quota of the transferred undertaking to the transferee undertaking for the production of sugar or, if there is more than one transferee undertaking, the allocation shall be made in proportion to the sugar production absorbed by each of them;
 - (c) in the event of the transfer of a sugar factory, the Member State shall reduce the quota of the undertaking transferring ownership of the factory and shall increase the quota of the sugar-producing undertaking or undertakings purchasing the factory in question by the quantity deducted in proportion to the production absorbed.
2. Where a number of the sugar-beet or cane growers directly affected by one of the operations referred to in paragraph 1 expressly show their willingness to supply their beet or cane to a sugar-producing undertaking which is not party to those operations, the Member State may make the allocation on the basis of the production absorbed by the undertaking to which they intend to supply their beet or cane.
3. In the event of closure, in circumstances other than those referred to in paragraph 1, of:
 - (a) a sugar-producing undertaking,
 - (b) one or more factories of a sugar-producing undertaking.

the Member State may allocate the part of the quotas involved in such closure to one or more sugar-producing undertakings.

Also in the case referred to in point (b) of the first subparagraph, where some of the producers concerned expressly show their willingness to supply their beet or cane to a given sugar-producing undertaking, the Member State may allocate the proportion of the quotas corresponding to the beet or cane concerned to the undertaking which they intend to supply with those products.

4. Where the derogation referred to in Article 127(5) is invoked, the Member State concerned may require the beet growers and the sugar undertakings concerned by that derogation to include in their agreements within the trade special clauses enabling the Member State to apply paragraphs 2 and 3 of this Point.

5. In the event of the lease of a factory belonging to a sugar-producing undertaking, the Member State may reduce the quota of the undertaking offering the factory for rent and allocate the portion by which the quota was reduced to the undertaking which rents the factory in order to produce sugar in it.

If the lease is terminated during the period of three marketing years referred to in Point I(d) the adjustment of quota under the first subparagraph of this point shall be cancelled retroactively by the Member State as at the date on which the lease took effect. However, if the lease is terminated by reason of force majeure, the Member State shall not be bound to cancel the adjustment.

6. Where a sugar-producing undertaking can no longer ensure that it meets its obligations under Union legislation towards the sugar-beet or cane producers concerned, and where that situation has been ascertained by the competent authorities of the Member State concerned, the latter may allocate for one or more marketing years the part of the quotas involved to one or more sugar-producing undertakings in proportion to the production absorbed.
7. Where a Member State grants a sugar producing undertaking price and outlet guarantees for processing sugar beet into ethyl alcohol, that Member State may, in agreement with that undertaking and the beet growers concerned, allocate all or part of the sugar production quotas to one or more other undertakings for one or more marketing years.

POINT III

In the event of the merger or transfer of isoglucose-producing undertakings or the transfer of an isoglucose-producing factory, the Member State may allocate the quotas involved for the production of isoglucose to one or more other undertakings, whether or not they have a production quota.

POINT IV

The measures taken pursuant to Points II and III may take effect only if the following conditions are met:

- (a) the interests of each of the parties concerned are taken into consideration;
- (b) the Member State concerned considers that they are likely to improve the structure of the beet, cane and sugar-manufacturing sectors;
- (c) they concern undertakings established in the same territory for which the quota is set in Annex XII.

POINT V

When the merger or transfer occurs between 1 October and 30 April of the following year, the measures referred to in Points II and III shall take effect for the current marketing year.

When the merger or transfer occurs between 1 May and 30 September of the same year, the measures referred to in Points II and III shall take effect for the following marketing year.

POINT VI

Where Points II and III are applied, Member States shall inform the Commission of the adjusted quotas not later than 15 days after the expiry of the periods referred to in Point V.

ANNEX XIV

CORRELATION TABLE REFERRED TO IN ARTICLE 230

Regulation (EC) No 1234/2007	This Regulation	Regulation (EU) No 1306/2013
Article 1	Article 1	—
Article 2(1)	Article 3(1) and (2)	—
Article 2(2)(a) and (b)	—	—
Article 2(2)(c)	Article 15(1)(a)	—
Article 3	Article 6	—
Article 4	—	—
Article 5, first paragraph	—	—
Article 5, second paragraph, first part	Article 3(4)	—
Article 5, second paragraph, second part	—	—
Article 5, third paragraph	Article 5(a)	—
Article 6	—	—
Article 7	Article 9	—
Article 8	Article 7	—
Article 9	Article 126	—
Article 10	Article 11	—
Article 11	Article 12	—
Article 12	Article 13	—
Article 13	Article 14 ⁽¹⁾	—
Article 14 (deleted)	—	—
Article 15 (deleted)	—	—
Article 16 (deleted)	—	—
Article 17 (deleted)	—	—
Article 18(1) to(4)	Article 15(2) ⁽¹⁾	—
Article 18(5)	—	—
Article 19 (deleted)	—	—
Article 20 (deleted)	—	—
Article 21 (deleted)	—	—
Article 22 (deleted)	—	—
Article 23 (deleted)	—	—
Article 24 (deleted)	—	—
Article 25	Article 16(1)	—

Regulation (EC) No 1234/2007	This Regulation	Regulation (EU) No 1306/2013
Article 26	—	—
Article 27	—	—
Article 28	—	—
Article 29	—	—
Article 30 (deleted)	—	—
Article 31	Article 17	—
Article 32	—	—
Article 33	[Article 18]	—
Article 34	[Article 18]	—
Article 35 (deleted)	—	—
Article 36 (deleted)	—	—
Article 37	[Article 18]	—
Article 38	[Article 18]	—
Article 39	[Article 19(3)]	—
Article 40	[Article 19(5)(a) and Article 20(o)(iii)]	—
Article 41	—	—
Article 42(1)	Article 10	—
Article 42(2)	Article 20(u)	—
Article 43(a) to (f), (i), (j) and (l)	Articles 19 and 20	—
Article 43(g), (h) and (k)	—	—
Article 44	Article 220(1)(a), (2) and (3)	—
Article 45	Article 220(1)(b), (2) and (3)	—
Article 46(1)	Article 220(5)	—
Article 46(2)	Article 220(6)	—
Article 47	Article 219	—
Article 48	Article 219	—
Article 49	Article 135 (1)	—
Article 50	Articles 125 and 127	—
Article 51	Article 128 (1)	—
Article 52	Article 130	—
Article 52a	—	—
Article 53(a)	Article 132(c)	—
Article 53(b)	Article 130(2)	—
Article 53(c)	Article 130(6)	—

Regulation (EC) No 1234/2007	This Regulation	Regulation (EU) No 1306/2013
Article 54	Article 166	—
Article 55	— ⁽²⁾	—
Article 56	Article 136	—
Article 57	Article 137	—
Article 58	—	—
Article 59	—	—
Article 60	Article 138	—
Article 61	Article 139	—
Article 62	Article 140	—
Article 63	Article 141	—
Article 64(1)	Article 142(1)	—
Article 64(2) and(3)	Article 142(2) (!)	—
Article 65	— ⁽²⁾	—
Article 66	—	—
Article 67	—	—
Article 68	—	—
Article 69	—	—
Article 70	—	—
Article 71	—	—
Article 72	—	—
Article 73	—	—
Article 74	—	—
Article 75	—	—
Article 76	—	—
Article 77	—	—
Article 78	—	—
Article 79	—	—
Article 80	—	—
Article 81	—	—
Article 82	—	—
Article 83	—	—
Article 84	—	—
Article 84a	—	—
Article 85(a)	Article 143(1) and Article 144(a)	—
Article 85(b)	Article 144(j)	—

Regulation (EC) No 1234/2007	This Regulation	Regulation (EU) No 1306/2013
Article 85(c)	Article 144(i)	—
Article 85(d)	—	—
Article 85a	— ⁽¹⁾	—
Article 85b	— ⁽¹⁾	—
Article 85c	— ⁽¹⁾	—
Article 85d	— ⁽¹⁾	—
Article 85e	— ⁽¹⁾	—
Article 85f	— ⁽¹⁾	—
Article 85g	— ⁽¹⁾	—
Article 85h	— ⁽¹⁾	—
Article 85i	— ⁽¹⁾	—
Article 85j	— ⁽¹⁾	—
Article 85k	— ⁽¹⁾	—
Article 85l	— ⁽¹⁾	—
Article 85m	— ⁽¹⁾	—
Article 85n	— ⁽¹⁾	—
Article 85o	—	—
Article 85p	—	—
Article 85q	—	—
Article 85r	—	—
Article 85s	—	—
Article 85t	—	—
Article 85u	—	—
Article 85v	—	—
Article 85w	—	—
Article 85x	—	—
Article 86 (deleted)	—	—
Article 87 (deleted)	—	—
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(¹) See also Council Regulation to be adopted in accordance with Article 43(3) TFEU.

(²) However, see Article 230.

REGULATION (EU) No 1309/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013
on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation (EC)
No 1927/2006

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 the third paragraph of Article 175,

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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy for smart, sustainable and inclusive growth (the "Europe 2020 strategy"). One of the three priorities of the Europe 2020 strategy is inclusive growth by empowering people through high levels of employment, investing in skills, fighting poverty and modernising labour markets, training and social protection systems so as to help people anticipate and manage change, and build an inclusive, cohesive society. Overcoming the adverse effects of globalisation also calls for the creation of jobs throughout the Union and a resolute policy on supporting growth.
- (2) The European Globalisation Adjustment Fund (EGF) was established by Regulation (EC) No 1927/2006 of the European Parliament and of the Council ⁽³⁾ for the duration of the Multiannual Financial Framework from 1 January 2007 to 31 December 2013. The EGF enables the Union to show solidarity towards workers made redundant as a result of major structural changes in world trade patterns due to globalisation and global financial and economic crises, and can also support beneficiaries in small labour markets or in exceptional

circumstances, in particular with regard to collective applications involving small and medium-sized enterprises (SMEs), even if the number of redundancies is below the normal threshold for mobilisation of the EGF.

- (3) In its Communication of 29 June 2011 entitled 'A Budget for Europe 2020', the Commission recognises the role of the EGF as a flexible fund to support workers who lose their jobs and to help them to find another job as rapidly as possible. The Union should continue to provide, for the duration of the Multiannual Financial Framework from 1 January 2014 to 31 December 2020, specific, one-off support to facilitate the re-integration into employment of redundant workers in areas, sectors, territories or labour markets suffering the shock of serious economic disruption. Given its purpose, which is to provide support in situations of urgency and unexpected circumstances, the EGF should remain outside the Multiannual Financial Framework.
- (4) The scope of Regulation (EC) No 1927/2006 was broadened in 2009 by Regulation (EC) No 546/2009 of the European Parliament and of the Council ⁽⁴⁾ as part of the European Economic Recovery Plan to include workers made redundant as a direct result of the global financial and economic crisis. In order to enable the EGF to intervene in ongoing or future crisis situations, its scope should cover redundancies resulting from a serious economic disruption caused by a continuation of the global financial and economic crisis addressed in Regulation (EC) No 546/2009, or by a new global financial and economic crisis.
- (5) The European Monitoring Centre on Change, based in the European Foundation for the Improvement of Living and Working Conditions (Eurofound) in Dublin, assists the Commission and the Member States with qualitative and quantitative analyses in order to help in the evaluation of trends of globalisation and use of the EGF.
- (6) In order to maintain the European nature of the EGF, an application for support should be triggered when the number of redundancies reaches a minimum threshold. Nevertheless, in small labour markets, such as small Member States or remote regions, or in exceptional circumstances, applications may be submitted for a lower number of redundancies.

⁽¹⁾ OJ C 143, 22.5.2012, p. 42.

⁽²⁾ OJ C 225, 27.7.2012, p. 159.

⁽³⁾ Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund (OJ L 406, 30.12.2006, p. 1).

⁽⁴⁾ Regulation (EC) No 546/2009 of the European Parliament and of the Council of 18 June 2009 amending Regulation (EC) No 1927/2006 on establishing the European Globalisation Adjustment Fund (OJ L 167, 29.6.2009, p. 26).

- (7) Workers made redundant and self-employed persons whose activity has ceased should have equal access to the EGF independently of their type of employment contract or employment relationship. Therefore, workers made redundant as well as self-employed persons whose activity has ceased should be regarded as EGF beneficiaries for the purposes of this Regulation.
- (8) The EGF should temporarily provide assistance to young people not in employment, education or training (NEETs) who reside in regions eligible under the Youth Employment Initiative, since those regions are disproportionately impacted by major redundancies.
- (9) Financial contributions from the EGF should be primarily directed at active labour market measures aimed at reintegrating beneficiaries rapidly into sustainable employment, either within or outside their initial sector of activity. The inclusion of pecuniary allowances in a coordinated package of personalised services should therefore be restricted. Companies could be encouraged to provide co-funding for the EGF-supported measures.
- (10) When drawing up the coordinated package of active labour market policy measures, Member States should favour measures that will significantly contribute to the employability of the beneficiaries. Member States should strive towards the reintegration into sustainable employment of the largest possible number of beneficiaries participating in these measures as soon as possible within the six-month period before the final report on the implementation of the financial contribution is due.
- (11) Member States should pay particular attention to disadvantaged beneficiaries, including young and older unemployed persons and those at risk of poverty, when designing the coordinated package of active labour market policy measures, given that those groups experience particular problems in re-entering the labour market due to the global financial and economic crisis and globalisation.
- (12) The principles of gender equality and of non-discrimination, which are among the Union's core values and are enshrined in the Europe 2020 strategy, should be respected and promoted when implementing the EGF.
- (13) In order to support beneficiaries effectively and rapidly, Member States should do their utmost to submit complete applications for a financial contribution from the EGF. Provision of additional information should be limited in time.
- (14) In the interest of beneficiaries and bodies responsible for implementation of the measures, the applicant Member State should keep all actors involved in the application process informed of the progress of the application.
- (15) In compliance with the principle of sound financial management, financial contributions from the EGF should not replace but should, where possible, complement support measures which are available for beneficiaries within the Union funds or other Union policies or programmes.
- (16) Special provisions should be included for information and communication activities on EGF cases and outcomes.
- (17) In order to express Union solidarity with workers made redundant and self-employed persons whose activity has ceased, the co-funding rate should be set at 60 % of the cost of the package and its implementation.
- (18) To facilitate the implementation of this Regulation, expenditure should be eligible either from the date on which a Member State starts to provide personalised services or from the date on which a Member State incurs administrative expenditure for implementing the EGF.
- (19) In order to cover the needs arising especially during the first months of each year, when the possibilities for transfers from other budget lines are particularly difficult, an adequate amount of payment appropriations should be made available on the EGF budget line in the annual budgetary procedure.
- (20) The Interinstitutional Agreement between the European Parliament, the Council and the Commission of 2 December 2013 on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽¹⁾ ("the Interinstitutional Agreement") determines the budgetary framework of the EGF.
- (21) In the interest of the beneficiaries, assistance should be made available as quickly and efficiently as possible. The Member States and the Union institutions involved in the EGF decision-making process should do their utmost to reduce processing time and simplify procedures so as to ensure the smooth and rapid adoption of decisions on the mobilisation of the EGF.
- (22) In the event of an enterprise closing down, workers made redundant by that enterprise may be helped to take over some or all of its activities and the Member State in which the enterprise is located may advance the funds that are required urgently to make this possible.

⁽¹⁾ OJ C 373, 20.12.2013, p. 1.

- (23) In order to enable political scrutiny by the European Parliament and continuous monitoring by the Commission of results obtained with EGF assistance, Member States should submit a final report on the implementation of the EGF.
- (24) The Member States should remain responsible for the implementation of the financial contribution and for the management and control of the actions supported by Union funding, in accordance with the relevant provisions of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (the "Financial Regulation")⁽¹⁾. The Member States should justify the use made of the financial contribution received from the EGF. In view of the short implementation period of EGF operations, reporting obligations should reflect the particular nature of the EGF interventions. It is therefore necessary to derogate from the Financial Regulation in respect of reporting obligations.
- (25) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of their scale and effects, 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 those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Objectives

This Regulation establishes the European Globalisation Adjustment Fund (EGF) for the period of the Multiannual Financial Framework from 1 January 2014 to 31 December 2020.

The aim of the EGF shall be to contribute to smart, inclusive and sustainable economic growth and to promote sustainable employment in the Union by enabling the Union to demonstrate solidarity towards, and to support workers made redundant and self-employed persons whose activity has ceased as a result of major structural changes in world trade patterns due to globalisation, as a result of a continuation of the global financial and economic crisis addressed in Regulation (EC) No 546/2009, or as a result of a new global financial and economic crisis.

Actions benefiting from financial contributions from the EGF shall aim to ensure that the largest possible number of beneficiaries participating in these actions find sustainable

⁽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).

employment as soon as possible within the six-month period before the final report referred to in Article 18(1) is due.

Article 2

Scope

This Regulation shall apply to applications by the Member States for financial contributions from the EGF for actions targeting:

- (a) workers made redundant and self-employed persons whose activity has ceased as a result of major structural changes in world trade patterns due to globalisation, demonstrated, in particular, by a substantial increase in imports into the Union, a serious shift in Union trade in goods or services, a rapid decline of the Union market share in a given sector or a delocalisation of activities to third countries, provided that these redundancies have a significant adverse impact on the local, regional or national economy;
- (b) workers made redundant and self-employed persons whose activity has ceased as a result of the continuation of the global financial and economic crisis addressed in Regulation (EC) No 546/2009, or as a result of a new global financial and economic crisis.

Article 3

Definition

For the purposes of this Regulation, 'beneficiary' means:

- (a) a worker whose employment is ended prematurely by redundancy, or ends during the reference period referred to in Article 4 and is not renewed;
- (b) a self-employed person who employed not more than 10 workers made redundant within the scope of this Regulation, and whose activity has ceased, provided that the activity was demonstrably dependent on the enterprise concerned in point (a) of Article 4(1), or that, in accordance with point (b) of Article 4(1), the self-employed person was operating in the economic sector concerned.

Article 4

Intervention criteria

1. A financial contribution from the EGF shall be provided where the conditions set out in Article 2 are met and result in:

- (a) at least 500 workers being made redundant or self-employed persons' activity ceasing, over a reference period of four months, in an enterprise in a Member State, including workers made redundant and self-employed persons' activity ceasing in its suppliers or downstream producers;

(b) at least 500 workers being made redundant or self-employed persons' activity ceasing, over a reference period of nine months, particularly in SMEs, all operating in the same economic sector defined at NACE Revision 2 division level and located in one region or two contiguous regions defined at NUTS 2 level, or in more than two contiguous regions defined at NUTS 2 level provided that there are more than 500 workers or self-employed persons affected in two of the regions combined.

2. In small labour markets or in exceptional circumstances, in particular with regard to collective applications involving SMEs, where duly substantiated by the applicant Member State, an application for a financial contribution under this Article may be considered admissible even if the criteria laid down in points (a) or (b) of paragraph 1 are not entirely met, when the redundancies have a serious impact on employment and the local, regional or national economy. The applicant Member State shall specify which of the intervention criteria set out in points (a) and (b) of paragraph 1 are not entirely met. The aggregated amount of contributions in exceptional circumstances may not exceed 15 % of the annual maximum amount of the EGF.

Article 5

Calculation of redundancies and of cessation of activity

1. The applicant Member State shall specify the method used for calculating the number of workers and self-employed persons referred to in Article 3 for the purpose of Article 4.

2. The applicant Member State shall calculate the number referred to in paragraph 1 as at one of the following dates:

- (a) the date on which the employer, in accordance with Article 3(1) of Council Directive 98/59/EC ⁽¹⁾, notifies the competent public authority in writing of the projected collective redundancies; in this case the applicant Member State shall provide the Commission with additional information on the actual number of redundancies effected according to Article 4(1) of this Regulation, prior to the completion of the assessment by the Commission;
- (b) the date of the employer's individual notice to lay off or to terminate the contract of employment of the worker;
- (c) the date of the de facto termination of the contract of employment or its expiry;
- (d) the end of the assignment to the user undertaking; or

(e) for a self-employed person, the date of cessation of the activities as determined in accordance with national law or administrative provisions.

Article 6

Eligible beneficiaries

1. The applicant Member State may provide personalised services co-financed by the EGF to eligible beneficiaries, who may include:

- (a) workers made redundant and self-employed persons whose activity has ceased, calculated in accordance with Article 5, within the reference period provided for in Article 4;
- (b) workers made redundant and self-employed persons whose activity has ceased, calculated in accordance with Article 5, before or after the reference period provided for in point (a) of Article 4(1); or
- (c) workers made redundant and self-employed persons whose activity has ceased, in cases where an application under Article 4(2) derogates from the criteria set out in point (a) of Article 4(1).

The workers and self-employed persons referred to in points (b) and (c) of the first subparagraph shall be considered eligible provided that they were made redundant or their activity ceased after the general announcement of the projected redundancies and provided that a clear causal link can be established with the event which triggered the redundancies during the reference period.

2. By way of derogation from Article 2, applicant Member States may, until 31 December 2017, provide personalised services co-financed by the EGF to up to a number of NEETs under the age of 25, or where Member States so decide under the age of 30, on the date of submission of the application, equal to the number of targeted beneficiaries, as a priority to persons made redundant or whose activity has ceased, provided that at least some of the redundancies within the meaning of Article 3 occur in NUTS 2 level regions eligible under the Youth Employment Initiative. The support may be rendered to NEETs under the age of 25, or where Member States so decide under the age of 30, in those NUTS 2 level regions eligible under the Youth Employment Initiative.

Article 7

Eligible actions

1. A financial contribution from the EGF may be made for active labour market measures that form part of a coordinated package of personalised services, designed to facilitate the re-integration of the targeted beneficiaries and, in particular, disadvantaged, older and young unemployed persons, into employment or self-employment. The coordinated package of personalised services may include in particular:

⁽¹⁾ Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (OJ L 225, 12.8.1998, p. 16).

- (a) tailor-made training and retraining, including information and communication technology skills and certification of acquired experience, job-search assistance, occupational guidance, advisory services, mentoring, outplacement assistance, entrepreneurship promotion, aid for self-employment, business start-ups and employee take-overs, and co-operation activities;
- (b) special time-limited measures, such as job-search allowances, employers' recruitment incentives, mobility allowances, subsistence or training allowances (including allowances for carers);
- (c) measures to stimulate in particular disadvantaged, older and young unemployed persons to remain in or return to the labour market.

The costs of the measures under point (b) may not exceed 35 % of the total costs for the coordinated package of personalised services listed in this paragraph.

The cost of investments for self-employment, business start-ups and employee take-overs may not exceed EUR 15 000.

The design of the coordinated package of personalised services should anticipate future labour market perspectives and required skills. The coordinated package should be compatible with the shift towards a resource-efficient and sustainable economy.

2. The following measures shall not be eligible for a financial contribution from the EGF:

- (a) special time-limited measures referred to in point (b) of paragraph 1, which are not conditional on the active participation of the targeted beneficiaries in job-search or training activities;
- (b) actions which are the responsibility of enterprises by virtue of national law or collective agreements.

The actions supported by the EGF shall not substitute passive social protection measures.

3. The coordinated package of personalised services shall be drawn up in consultation with the targeted beneficiaries or their representatives, or the social partners.

4. At the initiative of the applicant Member State, a financial contribution from the EGF may be made for the preparatory, management, information and publicity, control and reporting activities.

Article 8

Applications

1. The applicant Member State shall submit an application to the Commission within 12 weeks of the date on which the criteria set out in Article 4(1) or (2) are met.

2. Within two weeks of the date of submission of the application, or, where applicable, of the date on which the Commission is in possession of the translation of the application, whichever is the later, the Commission shall acknowledge receipt of the application and inform the Member State of any additional information it requires in order to assess the application.

3. Where such additional information is required by the Commission, the Member State shall respond within six weeks of the date of the request. This deadline shall be extended by the Commission by two weeks at the duly justified request of the Member State concerned.

4. On the basis of the information provided by the Member State, the Commission shall complete its assessment of the application's compliance with the conditions for providing a financial contribution, within 12 weeks of the receipt of the complete application or, where applicable, of the translation of the application. Where the Commission is unable, exceptionally, to comply with that deadline, it shall provide a written explanation setting out the reasons for the delay.

5. A complete application shall contain the following information:

- (a) a reasoned analysis of the link between the redundancies or cessation of activity and the major structural changes in world trade patterns, or the serious disruption of the local, regional and national economy caused by globalisation or by the continuation of the global financial and economic crisis or by a new global financial and economic crisis. This analysis shall be based on statistical and other information at the most appropriate level to demonstrate the fulfilment of the intervention criteria set out in Article 4;
- (b) the confirmation that, where the dismissing enterprise has continued its activities after the lay-offs, it has complied with its legal obligations governing the redundancies and has provided for its workers accordingly;
- (c) an assessment of the number of redundancies in accordance with Article 5, and an explanation of the events giving rise to those redundancies;
- (d) the identification, where applicable, of the dismissing enterprises, suppliers or downstream producers, sectors, and the categories of targeted beneficiaries broken down by sex and age group;
- (e) the expected impact of the redundancies as regards the local, regional or national economy and employment;

- (f) a description of the coordinated package of personalised services and related expenditure, including, in particular, any measures in support of employment initiatives for disadvantaged, older and young beneficiaries;
- (g) an explanation as to how the package of measures complements actions funded by other national or Union funds as well as information on actions that are mandatory for the enterprises concerned by virtue of national law or pursuant to collective agreements;
- (h) the estimated budget for each of the components of the coordinated package of personalised services in support of the targeted beneficiaries and for any preparatory, management, information and publicity, control and reporting activities;
- (i) the dates on which the personalised services to the targeted beneficiaries and the activities to implement the EGF, as set out in Article 7(1) and (4) respectively, were started or are due to be started;
- (j) the procedures followed for consulting the targeted beneficiaries or their representatives or the social partners as well as local and regional authorities or other relevant organisations as applicable;
- (k) a statement of compliance of the requested EGF support with the procedural and material Union rules on State aid as well as a statement outlining why the personalised services do not replace measures that are the responsibility of companies by virtue of national law or collective agreements;
- (l) the sources of national pre-financing or co-funding and other co-funding if applicable.

Article 9

Complementarity, compliance and coordination

1. A financial contribution from the EGF shall not replace actions which are the responsibility of companies by virtue of national law or collective agreements.
2. Support for targeted beneficiaries shall complement actions of the Member States at national, regional and local level including those co-financed by Union funds.
3. The financial contribution from the EGF shall be limited to what is necessary to provide solidarity and temporary, one-off support for targeted beneficiaries. The actions supported by the EGF shall comply with Union and national law, including State aid rules.

4. In accordance with their respective responsibilities, the Commission and the applicant Member State shall ensure the coordination of the assistance from Union funds.

5. The applicant Member State shall ensure that the specific actions receiving a financial contribution from the EGF shall not also receive assistance from other Union financial instruments.

Article 10

Equality between men and women and non-discrimination

The Commission and the Member States shall ensure that equality between men and women and the integration of the gender perspective are an integral part of, and are promoted during, the various stages of the implementation of the financial contribution from the EGF. The Commission and the Member States shall take all appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in access to the EGF and during the various stages of the implementation of the financial contribution.

Article 11

Technical assistance at the initiative of the Commission

1. At the initiative of the Commission, a maximum of 0,5 % of the annual maximum amount of the EGF may be used to finance the preparation, monitoring, data gathering and creation of a knowledge base relevant to the implementation of the EGF. It may also be used to finance administrative and technical support, information and communication activities, as well as audit, control and evaluation activities necessary to implement this Regulation.

2. Subject to the ceiling set out in paragraph 1, the European Parliament and the Council shall make available an amount for technical assistance at the start of each year on the basis of a proposal from the Commission.

3. The tasks set out in paragraph 1 shall be performed in accordance with the Financial Regulation, as well as the implementing rules applicable to this form of implementation of the budget.

4. The Commission's technical assistance shall include the provision of information and guidance to the Member States for using, monitoring and evaluating the EGF. The Commission should also provide information along with clear guidance on using the EGF to the European and national social partners.

Article 12

Information, communication and publicity

1. The applicant Member State shall provide information on and publicise the funded actions. Such information shall be addressed to the targeted beneficiaries, local and regional authorities, social partners, the media and the general public. It shall highlight the role of the Union and ensure that the contribution from the EGF is visible.

2. The Commission shall maintain and update regularly an internet website, accessible in all official languages of the institutions of the Union, to provide updated information on the EGF, guidance on the submission of applications, as well as information on accepted and rejected applications and on the role of the European Parliament and the Council in the budgetary procedure.

3. The Commission shall implement information and communication activities on EGF cases and outcomes based on its experience with the aim of improving the effectiveness of the EGF and ensuring that Union citizens and workers know about the EGF. The Commission shall report on the use of the EGF every two years by country and by sector.

4. The resources allocated to communication actions under this Regulation shall also contribute to covering the corporate communication of the political priorities of the Union provided that they are related to the general objectives of this Regulation.

Article 13

Determination of financial contribution

1. The Commission shall, on the basis of the assessment carried out in accordance with Article 8, and in particular taking into account the number of targeted beneficiaries, the proposed actions and the estimated costs, evaluate and propose as quickly as possible the amount of a financial contribution from the EGF, if any, that may be made within the limits of the resources available. The amount may not exceed 60 % of the total estimated costs referred to in point (h) of Article 8(5).

2. Where, on the basis of the assessment carried out in accordance with Article 8, the Commission concludes that the conditions for a financial contribution under this Regulation are met, it shall immediately initiate the procedure set out in Article 15.

3. Where, on the basis of the assessment carried out in accordance with Article 8, the Commission concludes that the conditions for a financial contribution under this Regulation are not met, it shall immediately notify the applicant Member State.

Article 14

Eligibility of expenditure

1. Expenditure shall be eligible for a financial contribution from the EGF from the dates set out in the application pursuant to point (i) of Article 8(5) on which the Member State concerned starts, or is due to start, providing the personalised services to the targeted beneficiaries or incurs the administrative expenditure to implement the EGF, in accordance with Article 7(1) and (4) respectively.

2. In the case of grants, Articles 67 and 68 of Regulation (EU, Euratom) No 1303/2013 of the European Parliament and of the Council⁽¹⁾, and Article 14 of Regulation (EU, Euratom) No 1304/2013 of the European Parliament and of the Council⁽²⁾, and any delegated acts adopted by the Commission pursuant to those Regulations, shall apply accordingly.

Article 15

Budgetary procedure

1. The arrangements for the EGF shall comply with point 13 of the Interinstitutional Agreement.

2. The appropriations concerning the EGF shall be entered in the general budget of the Union as a provision.

3. The Commission, on the one hand, and the European Parliament and the Council, on the other hand, shall endeavour to minimise the time taken to mobilise the EGF.

4. Where the Commission has concluded that the conditions for providing a financial contribution from the EGF are met, it shall submit a proposal to mobilise it. The decision to mobilise the EGF shall be taken jointly by the European Parliament and the Council within one month of the referral to the European Parliament and to the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

At the same time as it presents its proposal for a decision to mobilise the EGF, the Commission shall present to the European Parliament and to the Council a proposal for a transfer to the relevant budgetary lines. In the event of disagreement, a trilogue procedure shall be initiated.

Transfers related to the EGF shall be made in accordance with Article 27 of the Financial Regulation.

5. At the same time as it adopts a proposal for a decision to mobilise the EGF, the Commission shall adopt a decision on a financial contribution, by means of an implementing act, which shall enter into force on the date at which the European Parliament and the Council adopt the decision to mobilise the EGF.

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

⁽²⁾ Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 (See page 470 of this Official Journal).

6. A proposal for a decision to mobilise the EGF pursuant to paragraph 4 shall include the following:

- (a) the assessment carried out in accordance with Article 8(4), together with a summary of the information on which that assessment is based;
- (b) evidence that the criteria laid down in Articles 4 and 9 have been met; and
- (c) the reasons justifying the amounts proposed.

Article 16

Payment and use of the financial contribution

1. Following the entry into force of a decision on a financial contribution in accordance with Article 15(5) the Commission shall pay the financial contribution to the Member State concerned in a single 100 % pre-financing payment, in principle within 15 days. The pre-financing shall be cleared when the financial contribution is wound up in accordance with Article 18(2).

2. The financial contribution referred to in paragraph 1 shall be implemented under shared management in accordance with Article 59 of the Financial Regulation.

3. Detailed technical terms of the financing shall be determined by the Commission in the decision on a financial contribution referred to in Article 15(5).

4. The Member State shall carry out the eligible actions set out in Article 7 as soon as possible, and not later than 24 months after the date of submission of the application pursuant to Article 8(1).

The Member State may decide to postpone the starting date for the eligible actions by up to three months after the date of submission of the application. In the event of such postponement, the eligible actions shall be carried out within the 24-month period following the starting date communicated by the Member State in the application.

Where a beneficiary accesses an education or training course the duration of which is two years or more, the fees for such a course may be included for EGF co-funding up to the date when the final report referred to in Article 18(1) is due, provided that the relevant fees have been paid before that date.

5. When carrying out the actions contained in the package of personalised services the Member State concerned may submit a proposal to the Commission to amend the actions

included by adding other eligible actions listed in points (a) and (c) of Article 7(1), provided that such amendments are duly justified and the total does not exceed the financial contribution referred to in Article 15(5). The Commission shall assess the proposed amendments and, if it agrees, shall notify the Member State accordingly.

6. Expenditure pursuant to Article 7(4) shall be eligible until the deadline for submission of the final report.

Article 17

Use of the euro

Applications, decisions on financial contributions and reports under this Regulation, as well as any other related documents, shall express all amounts in euro.

Article 18

Final report and closure

1. No later than six months after the expiry of the period specified in Article 16(4), the Member State concerned shall present a final report to the Commission on the implementation of the financial contribution, including information on:

- (a) the type of actions and main outcomes;
- (b) the names of the bodies delivering the package of measures in the Member State;
- (c) the characteristics of the targeted beneficiaries and their employment status;
- (d) whether the undertaking, with the exception of micro enterprises and SMEs, has been a beneficiary of State aid or previous funding from Union cohesion or structural funds in the preceding five years;
- (e) a statement justifying the expenditure and indicating, whenever possible, the complementarity of actions with those funded by the European Social Fund (ESF).

Whenever possible, data related to beneficiaries shall be broken down by sex.

2. No later than six months after the Commission has received all the information required under paragraph 1, it shall wind up the financial contribution by determining the final amount of the financial contribution from the EGF and the balance due, if any, by the Member State concerned in accordance with Article 22.

*Article 19***Biennial report**

1. By 1 August 2015 and every two years thereafter, the Commission shall present to the European Parliament and to the Council a comprehensive, quantitative and qualitative report on the activities under this Regulation and Regulation (EC) No 1927/2006 in the previous two years. The report shall focus mainly on the results achieved by the EGF and shall in particular contain information relating to applications submitted, decisions adopted, actions funded, including statistics on the reintegration rate for assisted beneficiaries per Member State and the complementarity of such actions with actions funded by other Union funds, in particular ESF, and information relating to the winding-up of financial contributions made. It should also document those applications that have been rejected or reduced owing to a lack of sufficient appropriations or to non-eligibility.

2. The report shall be transmitted for information to the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions and the social partners.

*Article 20***Evaluation**

1. The Commission shall carry out on its own initiative and in close cooperation with the Member States:

- (a) by 30 June 2017, a mid-term evaluation of the effectiveness and sustainability of the results achieved;
- (b) by 31 December 2021, an ex-post evaluation with the assistance of external experts, to measure the impact of the EGF and its added value.

2. The results of the evaluations referred to in paragraph 1 shall be transmitted, for information, to the European Parliament, the Council, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions and the social partners. The recommendations of the evaluations should be taken into account for the design of new programmes in the area of employment and social affairs.

3. The evaluations referred to in paragraph 1 shall include the figures showing the number of applications and shall cover the performance of the EGF by country and by sector, so as to assess whether the EGF is reaching its targeted recipients.

*Article 21***Management and financial control**

1. Without prejudice to the Commission's responsibility for implementing the general budget of the Union, Member States shall take responsibility in the first instance for the management of actions supported by the EGF and the financial control of the actions. To that end, the measures they take shall include:

- (a) verifying that management and control arrangements have been set up and are being implemented in such a way as to

ensure that Union funds are being used efficiently and correctly, in accordance with the principles of sound financial management;

- (b) verifying that the financed actions have been properly carried out;
- (c) ensuring that expenditure funded is based on verifiable supporting documents, and is legal and regular;
- (d) preventing, detecting and correcting irregularities as defined in Article 122 of Regulation (EU, Euratom) No 1303/2013 and recovering amounts unduly paid together with interest on late payments where appropriate. The Member States shall notify any such irregularities to the Commission and keep the Commission informed of the progress of any resulting administrative and legal proceedings.

2. Member States shall designate bodies to be responsible for the management and control of the actions supported by the EGF in accordance with Article 59(3) of the Financial Regulation and with the criteria and procedures laid down in Regulation (EU, Euratom) No 1303/2013. Those designated bodies shall provide the Commission with the information set out in Article 59(5) of the Financial Regulation on the implementation of the financial contribution when submitting the final report referred to in Article 18 of this Regulation.

3. Member States shall make the financial corrections required where an irregularity is ascertained. The corrections made by the Member States shall consist in cancelling all or part of the financial contribution. The Member States shall recover any amount unduly paid as a result of an irregularity detected, repay it to the Commission and, where the amount is not repaid by the relevant Member State in the time allowed, default interest shall be due.

4. The Commission, in its responsibility for the implementation of the general budget of the Union, shall take every step necessary to verify that the actions financed are carried out in accordance with the principles of sound and efficient financial management. It is the responsibility of the applicant Member State to ensure that it has smoothly functioning management and control systems. The Commission shall satisfy itself that such systems are in place.

To that end, without prejudice to the powers of the Court of Auditors or the checks carried out by the Member State in accordance with national laws, regulations and administrative provisions, Commission officials or servants may carry out on-the-spot checks, including sample checks, on the actions financed by the EGF with a minimum of one working day's notice. The Commission shall give notice to the applicant Member State with a view to obtaining all the assistance necessary. Officials or servants of the Member State concerned may take part in such checks.

5. Member States shall ensure that all supporting documents regarding expenditure incurred are kept available for the Commission and the Court of Auditors for a period of three years following the winding-up of a financial contribution received from the EGF.

*Article 22***Reimbursement of financial contribution**

1. In cases where the actual cost of an action is less than the estimated amount quoted pursuant to Article 15, the Commission shall adopt a decision, by means of an implementing act, requiring the Member State concerned to reimburse the corresponding amount of the financial contribution received.
2. Where the Member State concerned fails to comply with the obligations stated in the decision on a financial contribution, the Commission shall take the necessary steps by adopting a decision, by means of an implementing act, to require that Member State to reimburse all or part of the financial contribution received.
3. Prior to the adoption of a decision under paragraphs 1 or 2, the Commission shall conduct a suitable examination of the case and shall, in particular, allow the Member State concerned a specified period of time in which to submit its comments.
4. If, after completing the necessary verifications, the Commission concludes that a Member State is not complying with its obligations under Article 21(1), it shall, if no agreement has been reached and the Member State has not made the corrections within a period set by the Commission, and

taking account of any comments made by the Member State, decide within three months from the end of the period referred to in paragraph 3 to make the financial corrections required by cancelling all or part of the contribution of the EGF to the action in question. Any amount unduly paid as a result of an irregularity detected shall be recovered and, where the amount is not repaid by the applicant Member State in the time allowed, default interest shall be due.

*Article 23***Repeal**

Regulation (EC) No 1927/2006 is repealed with effect from 1 January 2014.

Notwithstanding the first paragraph, it shall continue to apply for applications submitted up to 31 December 2013.

*Article 24***Entry into force**

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

It shall apply to all applications submitted between 1 January 2014 and 31 December 2020.

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

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. LINKEVIČIUS

**REGULATION (EU) No 1310/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013**

laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014

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 Articles 42 and 43(2) 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,

Whereas:

(1) Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽²⁾, which is to apply from 1 January 2014, lays down rules governing Union support for rural development and repeals Council Regulation (EC) No 1698/2005 ⁽³⁾, without prejudice to the continued application of the Regulations implementing that Regulation until they are repealed. To facilitate the transition from existing support schemes under Regulation (EC) No 1698/2005 to the new legal framework which covers the programming period starting on 1 January 2014 ("the new programming period"), transitional rules should be adopted to avoid any difficulties or delays in the implementation of rural development support which may be caused as a result of the date of adoption of the new rural development programmes. For that reason, Member States should be allowed to continue to undertake legal commitments under their existing rural development programmes in

2014 for certain measures and the resulting expenditure should be eligible for support in the new programming period.

(2) In view of the substantial change in the method for the delimitation of areas facing significant natural constraints in the new programming period, the obligation imposed upon the farmer to continue farming in the area for five years should not apply to new legal commitments undertaken in 2014.

(3) To ensure legal certainty in the transition, certain expenditure undertaken pursuant to Regulation (EC) No 1698/2005 should be eligible for a European Agricultural Fund for Rural Development (EAFRD) contribution in the new programming period where there are still payments to be made. This should also cover certain long-term commitments under similar measures provided for in Council Regulation (EEC) No 2078/1992 ⁽⁴⁾, in Council Regulation (EEC) No 2080/1992 ⁽⁵⁾ and in Council Regulation (EC) No 1257/1999 ⁽⁶⁾ where those measures were receiving support under Regulation (EC) No 1698/2005 and there are still payments to be made in 2014. In the interest of sound financial management and effective programme implementation, such expenditure should be clearly identified in the rural development programmes and throughout the management and control systems of the Member States. In order to avoid unnecessary complexity in the financial management of rural development programmes in the new programming period, the co-financing rates of the new programming period should apply to transitional expenditure.

(4) In view of the serious difficulties that a number of Member States still face with respect to their financial stability, and in order, during the transition from the current to the new programming period, to limit the negative effects resulting from those difficulties by allowing for maximum utilisation of the EAFRD funds

⁽¹⁾ OJ C 341, 21.11.2013, p. 71.

⁽²⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (See page 487 of this Official Journal).

⁽³⁾ Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1).

⁽⁴⁾ Council Regulation (EEC) No 2078/1992 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside (OJ L 215, 30.7.1992, p. 85).

⁽⁵⁾ Council Regulation (EEC) No 2080/1992 of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture (OJ L 215, 30.7.1992, p. 96).

⁽⁶⁾ Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ L 160, 26.6.1999, p. 80).

available, it is necessary to extend the duration of the derogation which increases the maximum EAFRD contribution rates provided for in Article 70(4c) of Regulation (EC) No 1698/2005 to the final date of eligibility of expenditure for the 2007-2013 programming period, namely to 31 December 2015.

- (5) Regulation (EU) No 1307/2013 of the European Parliament and of Council⁽¹⁾, which sets up new support schemes is to apply from 1 January 2015. Council Regulation (EC) No 73/2009⁽²⁾ therefore continues to form the basis on which income support will be granted for farmers in calendar year 2014, but due account should be taken of Council Regulation (EU) No 1311/2013⁽³⁾. In order to ensure consistency in the implementation of the provisions on cross-compliance and respect of the standards required by certain measures, it should be provided that the relevant provisions that apply in the 2007-2013 programming period continue to apply until the new legislative framework becomes applicable. For the same reasons, the provisions relating to complementary national direct payments for Croatia that apply in 2013 should continue to apply.
- (6) Regulation (EU) No 1306/2013 of the European Parliament and the Council⁽⁴⁾ gives Member States the possibility to pay advances for the direct payments. Under Regulation (EC) No 73/2009, the exercise of that possibility needs to be authorised by the Commission. Experience gained in the implementation of direct support schemes has shown that it is appropriate to allow for farmers to receive advance payments. As regard applications made in 2014, those advances should be limited to up to 50 % of the support schemes listed in Annex I to Regulation (EC) No 73/2009 and to up to 80 % of the beef and veal payment.
- (7) In order to comply with Regulation (EU) No 1311/2013 and in particular the levelling of the amount available for granting direct support to farmers as well as the external

convergence mechanism, it is necessary to modify the national ceilings fixed in Annex VIII to Regulation (EC) No 73/2009 for 2014. The modification of the national ceilings will inevitably have an impact on the amounts that individual farmers may receive as direct payments in 2014. The way in which this modification will impact on the value of payment entitlements and the level of other direct payments should therefore be laid down. In order to take account of the situation of smaller farmers, especially as no modulation or adjustment mechanism, including in particular the exemption of direct payments up to EUR 5 000 from such mechanism, is applicable in 2014, Member States which do not grant a redistributive payment and which do not opt for transferring funds to rural development support via the flexibility mechanism should be allowed not to reduce the value of all payment entitlements.

- (8) Certain provisions of Regulation (EC) No 73/2009, in particular as regards the elements covered by the figures set out in Annex VIII to that Regulation and the link with the possibility given to Member States to use the funds unspent in the single payment scheme to finance the specific support, should be clarified on the basis of experience gained in the financial implementation of that Regulation.
- (9) Under Regulation (EC) No 73/2009, Member States could decide to use a certain percentage of their national ceiling for specific support for their farmers, as well as to review a previous decision by deciding to modify, or put an end to, such support. It is appropriate to provide for an additional review of those decisions, with effect from calendar year 2014. At the same time, the special conditions set out in Article 69(5) of Regulation (EC) No 73/2009 pursuant to which the specific support is paid in some Member States, which are due to expire in 2013, need to be extended for one more year, in order to avoid disruption in the degree of support. In view of the introduction of the voluntary coupled support that will be available from 1 January 2015 for certain sectors or regions in clearly defined cases, it is appropriate to allow Member States to increase the level of certain types of specific support under Article 68 of Regulation (EC) No 73/2009 to 6,5 % in 2014.
- (10) The unitary support to farmers with smaller holdings should be sufficient in order to achieve the objective of income support effectively. As no modulation or adjustment mechanism, including in particular the exemption of direct payments up to EUR 5 000 from such mechanism, is applicable in 2014, Member States should be allowed already in 2014 to redistribute direct support between farmers by granting them an extra payment for the first hectares.

⁽¹⁾ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (See page 608 of this Official Journal).

⁽²⁾ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

⁽³⁾ Council Regulation (EU) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014–2020 (See page 884 of this Official Journal).

⁽⁴⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (See page 549 of this Official Journal).

- (11) The single area payment scheme laid down in Regulation (EC) No 73/2009 is transitional and was due to end on 31 December 2013. In the context of the reform of the common agricultural policy ("the CAP"), it was decided that Member States applying this scheme should be allowed to apply it for the purpose of granting the basic payment for a further transitional period until the end of 2020 at the latest. Therefore, the period of application of the single area payment scheme in Regulation (EC) No 73/2009 should be extended by one year. Moreover, in order to take account of ongoing land restructuring and for reasons of simplification, the eligible agricultural area in those Member States should also include those eligible areas which were not in good agricultural condition on 30 June 2003, as will be the case from 1 January 2015 under Regulation (EU) No 1307/2013.
- (12) In accordance with Article 133a of Regulation (EC) No 73/2009, new Member States other than Bulgaria and Romania applying the single area payment scheme may grant transitional national aid to farmers in 2013. In view of the prolongation of the single area payment scheme for the year 2014, those Member States should retain that possibility in 2014. In view of the level of complementary national direct payments under Article 132 of Regulation (EC) No 73/2009 in Bulgaria and Romania in 2014, those Member States should be able to opt for transitional national aid in 2014 instead of granting complementary national direct payments.
- (13) Transitional national aid is to be granted subject to the same conditions as those applied to this aid in 2013 or, in the case of Bulgaria and Romania, subject to the same conditions as those applied to complementary national direct payments in 2013. However, in order to simplify the management of the transitional national aid in 2014, the reductions referred to in Article 132(2) in conjunction with Articles 7 and 10 of Regulation (EC) No 73/2009 should not be applied. Furthermore, in order to ensure that the transitional national aid is coherent with the convergence mechanism, the maximum level of aid per sector should be limited to a certain percentage. In view of the difficult financial situation in Cyprus, certain adaptations should be provided for that Member State.
- (14) With a view to allowing Member States to address the needs of their agricultural sectors or to strengthen their rural development policy in a more flexible way, they should be given the possibility to transfer funds from their direct payments ceilings to their support assigned for rural development and vice versa. At the same time, those Member States in which the level of direct support remains lower than 90 % of the Union average level of support should be given the possibility to transfer additional funds from their support assigned for rural development to their direct payments ceilings. Such decisions should be made, within certain limits, for the whole period of financial years 2015-2020, with the possibility of review in 2017, provided that any decision based on such review does not entail any decrease in the amounts assigned for rural development.
- (15) Directive 2000/60/EC of the European Parliament and of the Council⁽¹⁾ provided for the repeal of Council Directive 80/68/EEC⁽²⁾ with effect from 22 December 2013. In order to maintain the same rules under cross-compliance related to protection of groundwater as those laid down in Directive 80/68/EEC on the last day of its validity, it is appropriate to adjust the scope of cross-compliance and to define a standard of good agricultural and environmental condition that covers the requirements of both Article 4 and Article 5 of that Directive.
- (16) Article 83 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council⁽³⁾ provides that the reference to Article 3 of Council Directive 91/414/EEC⁽⁴⁾ in Annex II to Regulation (EC) No 73/2009 is to be construed as a reference to Article 55 of Regulation (EC) No 1107/2009. However, Regulation (EU) 1306/2013, limits that reference so that it now refers only to the first and second sentence of Article 55 of Regulation (EC) No 1107/2009. In order to ensure consistency between the requirement for the use of plant protection products in the year 2014 and following years, Annex II to Regulation (EC) No 73/2009 should be amended accordingly.
- (17) Regulation (EU) No 1308/2013⁽⁵⁾ of the European Parliament and of the Council provides for support for silkworm rearing to be integrated into the direct support regime and, consequently, for its removal from Regulation (EU) No 1308/2013. In view of the delayed application of the new direct support regime, aids in the silkworm sector should continue for one more year.
- (18) Finland has been authorised to pay national support to certain agricultural sectors in southern Finland in accordance with Article 141 of the 1994 Act of Accession. Taking into account the timing of the CAP reform, and due to the fact that the economic situation of agriculture in southern Finland is difficult and that the producers are, therefore, still in need of specific support, it is appropriate to provide for integration measures whereby Finland may, in accordance with Article 42 of the Treaty on the Functioning of the European Union, be authorised by the Commission to grant national aid in

⁽¹⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽²⁾ Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (OJ L 20, 26.1.1980, p. 43).

⁽³⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

⁽⁴⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

⁽⁵⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (See page 671 of this Official Journal).

southern Finland under certain conditions. Income aid should be gradually reduced over the whole period and, by 2020, should not exceed 30 % of the amounts granted in 2013.

- (19) The provisions on the farm advisory system, the integrated administration and control system and cross-compliance laid down in Title III, Chapter II of Title V and Title VI, respectively, of Regulation (EU) No 1306/2013 should apply from 1 January 2015.
- (20) Following the insertion of Article 136a into Regulation (EC) No 73/2009, references to Article 14 of Regulation (EU) No 1307/2013 in Regulation (EU) No 1305/2013 need to be amended.
- (21) Regulations (EC) No 73/2009, (EU) No 1307/2013, (EU) No 1306/2013, (EU) No 1308/2013 and (EU) No 1305/2013 should therefore be amended accordingly.
- (22) In order to allow for the prompt application of the transitional provisions envisaged, this Regulation should enter into force on the day of its publication and should apply from 1 January 2014. In order to avoid any overlap between the rules on flexibility between pillars laid down in Regulation (EC) No 73/2009 and Regulation (EU) No 1307/2013 as amended by this Regulation, that particular amendment to Regulation (EC) No 73/2009 should apply from 31 December 2013 and the amendments to Regulation (EU) No 1307/2013, should apply from the date of entry into force of that Regulation. Furthermore, the amendments to Annexes II and III to Regulation (EC) No 73/2009, which aim to ensure the continuation of the current rules on cross-compliance, should apply from the date of repeal of Directive 80/68/EEC, namely 22 December 2013.
- (23) Taking into account the fact that 2014 will be a transitional year during which Member States will have to prepare the full implementation of the CAP reform, it is important to ensure that the administrative burden resulting from the transitional arrangements laid down in this Regulation is kept to the absolute minimum.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

TRANSITIONAL PROVISIONS ON SUPPORT FOR RURAL DEVELOPMENT

Article 1

Legal commitments under Regulation (EC) No 1698/2005 in 2014

1. Without prejudice to Article 88 of Regulation (EU) No 1305/2013, Member States may continue to undertake new legal commitments in relation to beneficiaries in 2014,

in relation to the measures referred to in Article 20, with the exception of points (a)(iii), (c)(i) and (d) thereof, and in Article 36 of Regulation (EC) No 1698/2005, pursuant to the rural development programmes adopted on the basis of that Regulation even after the financial resources of the 2007-2013 programming period have been used up, provided that the application for support is submitted before the adoption of the respective rural development programme for the 2014-2020 programming period.

Without prejudice to Point E of Annex VI to the 2012 Act of Accession and the provisions adopted on the basis thereof, Croatia may continue to undertake new legal commitments in respect of beneficiaries in 2014 in relation to the measures referred to in points (a) and (c) of Article 171(2) of Commission Regulation (EC) No 718/2007⁽¹⁾, pursuant to the Instrument for Pre-Accession Assistance on Rural Development (IPARD) programme adopted on the basis of that Regulation even after the relevant financial resources of that programme have been used up, provided that the application for support is submitted before the adoption of its rural development programme for the 2014-2020 programming period.

The expenditure incurred on the basis of those commitments shall be eligible in accordance with Article 3 of this Regulation.

2. The condition set out in the second indent of Article 14(2) of Regulation (EC) No 1257/1999 shall not apply to new legal commitments undertaken by Member States under points (a)(i) and (ii) of Article 36 of Regulation (EC) No 1698/2005 in 2014.

Article 2

Continued application of Articles 50a and 51 of Regulation (EC) No 1698/2005

Without prejudice to Article 88 of Regulation (EU) No 1305/2013, Articles 50a and 51 of Regulation (EC) No 1698/2005 shall continue to apply, until 31 December 2014, to operations selected under the rural development programmes of the 2014-2020 programming period pursuant to points (a) and (b) of Article 21(1) of Regulation (EU) No 1305/2013, as regards the annual premium, and to Articles 28 to 31, 33 and 34 of that Regulation.

Article 3

Eligibility of certain types of expenditure

1. Without prejudice to Article 6(1) and Article 88 of Regulation (EU) No 1305/2013, expenditure relating to legal commitments to beneficiaries incurred under the measures referred to in Articles 20 and 36 of Regulation (EC) No 1698/2005 and, without prejudice to Point E of Annex VI to the 2012 Act of Accession and the provisions adopted on the basis thereof in the case of Croatia, measures referred to in

⁽¹⁾ Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA) (OJ L 170, 29.6.2007, p. 1).

points (a) and (c) of Article 171(2) of Regulation (EC) No 718/2007 shall be eligible for an EAFRD contribution in the 2014-2020 programming period in the following cases:

- (a) for payments to be made between 1 January 2014 and 31 December 2015, and, in the case of Croatia, between 1 January 2014 and 31 December 2016, where the financial allocation for the relevant measure of the respective programme adopted pursuant to Regulation (EC) No 1698/2005 or Regulation (EC) No 718/2007 has already been used up; and
- (b) for payments to be made after 31 December 2015, and, in the case of Croatia, after 31 December 2016.

This paragraph shall also apply to legal commitments to beneficiaries undertaken under corresponding measures provided for in Regulations (EC) No 1257/1999, (EEC) No 2078/1992 and (EEC) No 2080/1992 which are receiving support under Regulation (EC) No 1698/2005.

2. The expenditure referred to in paragraph 1 shall be eligible for an EAFRD contribution in the 2014-2020 programming period, subject to the following conditions:

- (a) that such expenditure is provided for in the respective rural development programme for the 2014-2020 programming period;
- (b) that the EAFRD contribution rate of the corresponding measure under Regulation (EU) No 1305/2013, as set out in Annex I to this Regulation, applies; and
- (c) that Member States ensure that the relevant transitional operations are clearly identified through their management and control systems.

Article 4

Application of certain provisions of Regulation (EC) No 73/2009 in 2014

By way of derogation from Regulation (EU) No 1305/2013, for the year 2014:

- (a) the reference to Chapter I of Title VI of Regulation (EU) No 1306/2013 in Articles 28, 29, 30 and 33 of Regulation (EU) No 1305/2013 shall be read as a reference to Articles 5 and 6 of Regulation (EC) No 73/2009 and to Annexes II and III thereto.
- (b) the reference in Article 40(1) of Regulation (EU) No 1305/2013 to Article 19 of Regulation (EU) No 1307/2013 shall be read as a reference to Article 132 of Regulation (EC) No 73/2009;
- (c) the reference in point (a) of Article 40(2) of Regulation (EU) No 1305/2013 to Article 17 of Regulation (EU) No 1307/2013 shall be read as a reference to Article 121 of Regulation (EC) No 73/2009.

CHAPTER II AMENDMENTS

Article 5

Amendments to Regulation (EC) No 1698/2005

Article 70(4c) of Regulation (EC) No 1698/2005 is hereby amended as follows:

- (a) in the first subparagraph, the introductory phrase is replaced by the following:

"(4c) By way of derogation from the ceilings set out in paragraphs 3, 4 and 5, the EAFRD contribution may be increased up to a maximum of 95 % of eligible public expenditure in the regions eligible under the Convergence Objective and the outermost regions and the smaller Aegean Islands, and 85 % of eligible public expenditure in other regions. These rates shall apply to the eligible expenditure newly declared in each certified declaration of expenditure until the final date of eligibility of expenditure for the 2007-2013 programming period on 31 December 2015, where on 20 December 2013 or thereafter a Member State complies with one of the following conditions:"

- (b) the second subparagraph is replaced by the following:

"A Member State wishing to make use of the derogation provided in the first subparagraph shall submit a request to the Commission to modify its rural development programme accordingly. The derogation shall apply from the approval, by the Commission, of the modification of the programme."

Article 6

Amendments to Regulation (EC) No 73/2009

Regulation (EC) No 73/2009 is hereby amended as follows:

- (1) In Article 29, the following paragraph is added:

"5. By way of derogation from paragraph 2, Member States may, from 16 October 2014, pay advances to farmers of up to 50 % of the direct payments under the support schemes listed in Annex I in respect of applications made in 2014. In the case of beef and veal payments provided for in Section 11 of Chapter 1 of Title IV, Member States may increase that percentage to up to 80 %."

- (2) Article 40 is replaced by the following:

"Article 40

National ceilings

1. For each Member State and for each year, the total value of all allocated payment entitlements, of the national reserve referred to in Article 41 and of the ceilings fixed in accordance with Article 51(2), Article 69(3) and Article 72b shall be equal to its national ceiling determined in Annex VIII.

2. Where necessary, a Member State shall make a linear reduction or increase in the value of all payment entitlements, or in the amount of the national reserve referred to in Article 41 or in both in order to ensure compliance with its national ceiling determined in Annex VIII.

Member States that decide not to implement Chapter 5a of Title III of this Regulation and not to use the possibility provided for in Article 136a(1) may decide, for the purpose of obtaining the necessary reduction in the value of payment entitlements referred to in the first subparagraph, not to reduce payment entitlements activated in 2013 by farmers who, in 2013, claimed less than an amount of direct payments to be determined by the Member State concerned; that amount shall not be higher than EUR 5 000.

3. Without prejudice to Article 26 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council (*), the amounts of direct payments which may be granted in a Member State in respect of calendar year 2014 under Articles 34, 52, 53, 68 and 72a of this Regulation and for the aid to silkworm rearers under Article 111 of Regulation (EC) No 1234/2007 shall not be higher than the ceilings set out in Annex VIII to this Regulation for that year, reduced by the amounts resulting from the application of Article 136b of this Regulation for the calendar year 2014 as set out in Annex VIIIa to this Regulation.

Where necessary, and in order to comply with the ceilings set out in Annex VIII to this Regulation reduced by the amounts resulting from the application of Article 136b of this Regulation for the calendar year 2014 as set out in Annex VIIIa to this Regulation, Member States shall make a linear reduction in the amounts of direct payments in respect of calendar year 2014.

(*) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549)."

(3) In Article 41(1), point (b) is replaced by the following:

"(b) the total value of all allocated payment entitlements and the ceilings fixed in accordance with Article 51(2), Article 69(3) and Article 72b of this Regulation."

(4) In Article 51(2), the following subparagraph is added:

"For 2014, the ceilings for the direct payments referred to in Articles 52 and 53 shall be identical to the ceilings

determined for 2013, multiplied by a coefficient to be calculated for each Member State concerned by dividing the national ceiling for 2014 set out in Annex VIII by the national ceiling for 2013. This multiplication shall only apply to Member States for which the national ceiling set out in Annex VIII for 2014 is lower than the national ceiling for 2013."

(5) In Article 68(8), the introductory phrase is replaced by the following:

"8. By 1 February 2014, those Member States that took the decision referred to in Article 69(1) may review that decision and decide, with effect from 2014, to:"

(6) Article 69 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Member States may decide, by 1 August 2009, by 1 August 2010, by 1 August 2011, by 1 September 2012, by the date of its accession in the case of Croatia, or by 1 February 2014, to use, from the year following such decision, from the first year of implementation of the single payment scheme in the case of Croatia, or in the case of a decision taken by 1 February 2014, from the year 2014, up to 10 % of their national ceiling referred to in Article 40, or, in the case of Malta, the amount of EUR 2 000 000 for the specific support provided for in Article 68(1).";

(b) in paragraph 3, the second subparagraph is replaced by the following:

"For the sole purposes of ensuring compliance with the national ceilings as provided for in Article 40(2) and making the calculation referred to in Article 41(1), the amounts used to grant the support referred to in point (c) of Article 68(1) shall be deducted from the national ceiling referred to in Article 40(1). They shall be counted as allocated payment entitlements.";

(c) in paragraph 4, the percentage "3,5 %" is replaced by "6,5 %";

(d) in the first sentence of paragraph 5, the year "2013" is replaced by "2014";

(e) in paragraph 6, the second subparagraph is replaced by the following:

"For the sole purposes of ensuring compliance with the national ceilings provided for in Article 40(2) and making the calculation referred to in Article 41(1), where a Member State makes use of the option provided for in point (a) of the first subparagraph of this paragraph, the amount concerned shall not be counted as part of the ceilings fixed under paragraph 3 of this Article."

(7) In Title III, the following Chapter is added:

"Chapter 5a

REDISTRIBUTIVE PAYMENT IN 2014

Article 72a

General rules

1. Member States may decide, by 1 March 2014, to grant, for 2014, a payment to farmers who are entitled to a payment under the single payment scheme referred to in Chapters 1, 2 and 3 ("the redistributive payment").

Member States shall notify the Commission of their decision by 1 March 2014.

2. Member States which have decided to apply the single payment scheme at regional level in accordance with Article 46 may apply the redistributive payment at regional level.

3. Without prejudice to the application of financial discipline, of linear reductions as referred to in Article 40(3), and to the application of Articles 21 and 23, the redistributive payment shall be granted upon activation of payment entitlements by the farmer.

4. The redistributive payment shall be calculated by Member States by multiplying a figure to be set by the Member State, which shall not be higher than 65 % of the national or regional average payment per hectare, by the number of payment entitlements activated by the farmer in accordance with Article 34. The number of such payment entitlements shall not exceed a maximum to be set by Member States which shall not be higher than 30 hectares or the average size of agricultural holdings set out in Annex VIIIb if that average size exceeds 30 hectares in the Member State concerned.

5. Provided that the maximum limits set out in paragraph 4 are respected, Member States may, at national level, establish a graduation in the number of hectares set in accordance with that paragraph, which shall apply identically to all farmers.

6. The national average payment per hectare referred to in paragraph 4 shall be established by the Member States on the basis of the national ceiling set out in Annex VIIIc and the number of eligible hectares declared in accordance with Article 34(2) in 2014.

The regional average payment per hectare referred to in paragraph 4 shall be established by the Member States by using a share of the national ceiling set out in Annex VIIIc and the number of eligible hectares declared in the region concerned in accordance with Article 34(2) in 2014. For each region, this share shall be calculated by dividing the

respective regional ceiling set in accordance with Article 46(3) by the national ceiling set in accordance with Article 40 for the year 2014.

7. Member States shall ensure that no advantage provided for under this Chapter is granted to farmers in respect of whom it is established that, after 18 October 2011, they divided their holding with the sole purpose of benefiting from the redistributive payment. This shall also apply to farmers whose holdings result from that division.

Article 72b

Financial provisions

1. In order to finance the redistributive payment, Member States may decide, by 1 March 2014, to use up to 30 % of the annual national ceiling set in accordance with Article 40 for claim year 2014. They shall notify the Commission of any such decision by that date.

2. On the basis of the percentage of the national ceiling to be used by Member States pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceiling for the redistributive payment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 141b(2)."

(8) In Article 90, paragraph 3 is replaced by the following:

"3. The amount of the aid per eligible hectare shall be established by multiplying the yields established in paragraph 2 by the following reference amounts:

Bulgaria: EUR 520,20

Greece: EUR 234,18

Spain: EUR 362,15

Portugal: EUR 228,00."

(9) In Article 122, paragraph 3 is replaced by the following:

"3. The single area payment scheme shall be available until 31 December 2014."

(10) In Article 124, paragraphs 1 and 2 are replaced by the following:

"1. The agricultural area of a new Member State under the single area payment scheme shall be that part of its utilised agricultural area which is maintained in good agricultural condition, whether or not in production, and, where appropriate, adjusted in accordance with the objective and non-discriminatory criteria to be set by that new Member State after approval by the Commission.

For the purposes of this Title, 'utilised agricultural area' shall mean the total area taken up by arable land, permanent grassland, permanent crops and kitchen gardens, as established by the Commission for its statistical purposes.

2. For the purpose of granting payments under the single area payment scheme, all agricultural parcels corresponding to the criteria provided for in paragraph 1, as well as agricultural parcels planted with short rotation coppice (CN code ex 0602 90 41), shall be eligible.

Except in the case of force majeure or exceptional circumstances, the parcels referred to in the first subparagraph shall be at the farmer's disposal on the date fixed by the Member State, which shall be no later than the date fixed in that Member State for amendment of the aid application.

The minimum size of eligible area per holding for which payments may be requested shall be 0,3 ha. However, any new Member State may decide, on the basis of objective criteria and after approval by the Commission, to set the minimum size at a higher level provided that it does not exceed 1 ha."

(11) In Title V, the following Chapter is inserted:

"Chapter 2a

REDISTRIBUTIVE PAYMENT IN 2014

Article 125a

General rules

1. The new Member States applying the single area payment scheme may decide, by 1 March 2014, to grant, for 2014, a payment to farmers who are entitled to a payment under the single area payment scheme referred to in Chapter 2 ("the redistributive payment for new Member States").

The new Member States concerned shall notify the Commission of their decision by 1 March 2014.

2. Without prejudice to the application of financial discipline and the application of Articles 21 and 23, the redistributive payment for new Member States shall take the form of an increase in the per hectare amounts granted under the single area payment scheme.

3. The redistributive payment for new Member States shall be calculated by Member States by multiplying a figure to be set by the Member State, which shall not be higher than 65 % of the national average payment per hectare, by the number of eligible hectares in respect of which the farmer is granted amounts under the the single area payment scheme. The number of such hectares shall not exceed a maximum to be set by Member States which shall not be higher than 30 or the average size of agricultural holdings set out in Annex VIIIb if that average size exceeds 30 hectares in the new Member State concerned.

4. Provided that the maximum limits set out in paragraph 3 are respected, Member States may, at national level, establish a graduation in the number of hectares set in accordance with that paragraph, which shall apply identically to all farmers.

5. The national average payment per hectare referred to in paragraph 3 shall be established by the Member States on the basis of the national ceiling set out in Annex VIIIc and the number of eligible hectares declared under the single area payment scheme in 2014.

6. New Member States shall ensure that no advantage provided for under this Chapter is granted to farmers in respect of whom it is established that, after 18 October 2011, they divided their holding with the sole purpose of benefiting from the redistributive payment for new Member States. This shall also apply to farmers whose holdings result from that division.

Article 125b

Financial provisions

1. In order to finance the redistributive payment for new Member States, new Member States may decide, by 1 March 2014, to use up to 30 % of the annual national ceiling referred to in Article 40 for claim year 2014, or for Bulgaria and Romania, of the amounts set in Annex VIIIId. They shall notify the Commission of any such decision by that date.

The annual financial envelope in Article 123 shall be reduced by the amount referred to in the first subparagraph.

2. On the basis of the percentage of the national ceiling to be used by the new Member States concerned pursuant to paragraph 1 of this Article, the Commission shall adopt implementing acts fixing the corresponding ceiling for the redistributive payment for new Member States and the corresponding reduction of the annual financial envelope referred to in Article 123. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 141b(2)."

(12) In Article 131, paragraph 1 is replaced by the following:

"1. The new Member States applying the single area payment scheme may decide, by 1 August 2009, by 1 August 2010, by 1 August 2011, by 1 September 2012 or by 1 February 2014, to use, from the year following that decision, or in the case of a decision taken by 1 February 2014, from the year 2014, up to 10 % of their national ceilings referred to in Article 40 to grant support to farmers as set out in Article 68(1) and in accordance with Chapter 5 of Title III, as applicable to them."

(13) The title of Article 133a is replaced by the following:

"Transitional national aid in 2013".

(14) In Chapter 4 of Title V, the following Article is inserted:

"Article 133b

Transitional national aid in 2014

1. The new Member States applying the single area payment scheme in accordance with Article 122 may decide to grant transitional national aid in 2014.

2. Bulgaria and Romania may grant aid under this Article only if they decide, by 1 February 2014, not to grant, in 2014, any complementary national direct payments under Article 132.

3. The aid under this Article may be granted to farmers in sectors in respect of which transitional national aid pursuant to Article 133a or, in the case of Bulgaria and Romania, complementary national direct payments pursuant to Article 132 were granted in 2013.

4. The conditions for granting the aid under this Article shall be identical to those authorised for the granting of payments pursuant to Articles 132 or 133a in respect of 2013, with the exception of the reductions due to the application of Article 132(2) in conjunction with Articles 7 and 10.

5. The total amount of aid that may be granted to farmers in any of the sectors referred to in paragraph 3 shall be limited to 80 % of the sector-specific financial envelopes in respect of 2013 authorised by the Commission in accordance with Article 133a(5) or, in the case of Bulgaria and Romania, in accordance with Article 132(7).

For Cyprus, the sector-specific financial envelopes are set out in Annex XVIIa.

6. Paragraphs 3 and 4 shall not apply to Cyprus.

7. The new Member States shall notify the Commission of the decisions referred to in paragraphs 1 and 2 by 31 March 2014. The notification of the decision referred to in paragraph 1 shall include the following information:

- (a) the financial envelope for each sector;
- (b) the maximum rate of transitional national aid, where appropriate.

8. The new Member States may decide, on the basis of objective criteria and within the limits authorised by the Commission pursuant to paragraph 5, on the amounts of transitional national aid to be granted."

(15) In Title VI, the following Article is added:

"Article 136a

Flexibility between pillars

1. By 31 December 2013, Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No 1305/2013 of the European Parliament and of the Council (*), up to 15 % of their annual national ceilings for calendar year 2014 set out in Annex VIII to this Regulation and of their annual national ceilings for calendar years 2015-2019 set out in Annex II to Regulation (EU) No 1307/2013 of the European Parliament and of the Council (**). As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first subparagraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage referred to in that subparagraph, which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of calendar year 2014 may, by 1 August 2014, take that decision, in respect of calendar years 2015 to 2019. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decision referred to in this paragraph with effect from calendar year 2018. Any decisions based on such review shall not result in a decrease of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of any decision based on such review by 1 August 2017.

2. By 31 December 2013, Member States which do not take the decision referred to in paragraph 1 may decide to make available as direct payments up to 15 % or, in the case of Bulgaria, Estonia, Spain Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Finland, Sweden and the United Kingdom, up to 25 % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020 as specified in Regulation (EU) No 1305/2013. As a result, the corresponding amount shall no longer be available for support measures under rural development programming.

The decision referred to in the first subparagraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage referred to in that subparagraph which may vary by calendar year.

Member States which do not take the decision referred to in the first subparagraph in respect of financial year 2015 may, by 1 August 2014, take that decision in respect of financial years 2016 to 2020. They shall notify the Commission of any such decision by that date.

Member States may decide to review the decision referred to in this paragraph with effect for financial year 2019 and 2020. Any decision based on such review shall not result in an increase of the percentage notified to the Commission in accordance with the first, second and third subparagraphs. Member States shall notify the Commission of any decision based on such review by 1 August 2017.

3. In order to take account of the decisions notified by Member States in accordance with paragraphs 1 and 2, the Commission shall be empowered to adopt delegated acts, in accordance with Article 141a, reviewing the ceilings set out in Annex VIII.

(*) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

(**) Regulation (EU) No 1307 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608)."

(16) In Title VI, the following Article is added:

"Article 136b

Transfer to EAFRD

Member States that, in accordance with Article 136, decided to make an amount available from the financial year 2011 for Union support under rural development programming and financing under the EAFRD, shall continue to make the amounts of Annex VIIIa available for rural development programming and financing under the EAFRD for financial year 2015."

(17) The following Article is inserted:

"Article 140a

Delegation of powers

In order to take account of the decisions notified by Member States in accordance with Article 136a(1) and

(2), as well as of any other modification of the national ceilings set out in Annex VIII, the Commission shall be empowered to adopt delegated acts, in accordance with Article 141a, adapting the ceilings set out in Annex VIIIc.

In order to ensure an optimal application of the linear reduction provided for under Article 40(3) in 2014, the Commission shall be empowered to adopt delegated acts, in accordance with Article 141a, laying down rules for calculating the reduction to be applied by Member States to farmers pursuant to Article 40(3)."

(18) Article 141a is replaced by the following:

"Article 141a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 11a, Article 136a(3) and Article 140a shall be conferred on the Commission until 31 December 2014.

3. The delegation of power referred to in Article 11a, Article 136a(3) and Article 140a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 11a, Article 136a(3) and Article 140a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."

(19) Annexes I, VIII and XVIIa are amended and new Annexes VIIIa, VIIIb, VIIIc and VIId added in accordance with points (1), (4), (5) and (6) of Annex II to this Regulation.

(20) Annexes II and III are amended in accordance with points (2) and (3) of Annex II to this Regulation.

*Article 7***Amendments to Regulation (EU) No 1307/2013**

Regulation (EU) No 1307/2013 is amended as follows:

(1) In Article 6, paragraph 3 is replaced by the following:

"3. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions taken by Member States in accordance with Article 136a of Regulation (EC) No 73/2009 and Article 14 of this Regulation and those resulting from the application of Article 20(2) of this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 70 of this Regulation adapting the national ceilings set out in Annex II to this Regulation."

(2) In Article 26(6), the following subparagraph is added:

"For the purposes of the calculation methods provided for in this Article, provided that the redistributive payment pursuant to Article 41 is not applied, Member States shall fully take into account the support granted for calendar year 2014 under Articles 72a and 125a of Regulation (EC) No 73/2009."

(3) In Article 36(3), the following subparagraph is added:

"In order to differentiate the single area payment scheme, and provided that the redistributive payment pursuant to Article 41 is not applied, Member States shall fully take into account the support granted for calendar year 2014 under Article 125a of Regulation (EC) No 73/2009."

(4) In Article 72(2), the following subparagraph is inserted after the first subparagraph:

"However, it shall continue to apply in respect of aid applications relating to claim years starting before 1 January 2015."

*Article 8***Amendments to Regulation (EU) No 1306/2013**

Regulation (EU) No 1306/2013 is hereby amended as follows:

(1) In Article 119(1), the second subparagraph is replaced by the following:

"However, Article 31 of Regulation (EC) No 1290/2005 and the relevant implementing rules shall continue to apply until 31 December 2014 and Articles 30 and 44a of Regulation (EC) No 1290/2005 and the relevant implementing rules shall continue to apply to expenditure incurred and payments made for agricultural financial year 2013, respectively."

(2) The following Article is inserted:

"Article 119a

Derogation from Regulation (EU) No 966/2012

By way of derogation from Article 59(5) of Regulation (EU) No 966/2012 and from Article 9(1) of this Regulation, for agricultural financial year 2014, it shall not be necessary for the opinion of the certification body to establish whether the expenditure in respect of which reimbursement has been requested from the Commission is legal and regular."

(3) In Article 121, paragraph 2 is replaced by the following:

"2. However, the following provisions shall apply as follows:

(a) Articles 7, 8, 16, 25, 26 and 43, from 16 October 2013;

(b) Article 52, Title III, Chapter II of Title V and Title VI, from 1 January 2015.

3. Notwithstanding paragraphs 1 and 2:

(a) Articles 9, 18, 40 and 51 shall apply to expenditure effected from 16 October 2013;

(b) Chapter IV of Title VII shall apply to payments made from agricultural financial year 2014 onwards."

*Article 9***Amendments to Regulation (EU) No 1308/2013**

Regulation (EU) No 1308/2013 is hereby amended as follows:

(1) The following Article is inserted:

"Article 214a

National payments for certain sectors in Finland

Subject to authorisation by the Commission, for the period 2014-2020, Finland may continue to grant national aids which it granted in 2013 to producers on the basis of Article 141 of the 1994 Act of Accession, provided that:

(a) the amount of income aid is degressive over the whole period and in 2020 does not exceed 30 % of the amount granted in 2013; and

(b) prior to any recourse to this possibility, full use has been made of the support schemes under the CAP for the sectors concerned.

The Commission shall adopt its authorisation without applying the procedure referred to in Article 229(2) or (3) of this Regulation."

(2) In Article 230(1), the following points are inserted:

- "(ba) Article 111 until 31 March 2015;"
- "(ca) Article 125a(1)(e) and (2) and, in respect of the fruit and vegetables sector, Annex XVIa, until the date of application of the related rules to be established pursuant to the delegated acts provided for in points (b) and (i) of Article 173(1);"
- "(da) Articles 136, 138 and 140, as well as Annex XVIII for the purposes of applying those Articles, until the date of application of the rules to be established pursuant to the implementing acts provided for in Article 180 and in point (a) of Article 183 or until 30 June 2014, whichever is the earlier."

Article 10

Amendments to Regulation (EU) No 1305/2013

Regulation (EU) No 1305/2013 is hereby amended as follows:

(1) In Article 31, the following paragraph is added:

"6. Croatia may grant payments under this measure to beneficiaries in areas which have been designated pursuant to Article 32(3), even where the fine-tuning exercise referred to in the third subparagraph of that paragraph has not been completed. The fine-tuning exercise shall be completed by no later than 31 December 2014. Beneficiaries in areas that are no longer eligible following the completion of the fine-tuning exercise shall receive no further payments under this measure."

(2) In Article 58, paragraph 6 is replaced by the following:

"6. The funds transferred to the EAFRD in application of Article 136a(1) of Regulation (EC) No 73/2009 and Article 7(2) of Regulation (EU) No 1307/2013 and the funds transferred to the EAFRD in application of Articles

10b, 136 and 136b of Regulation (EC) No 73/2009 in respect of calendar years 2013 and 2014 shall also be included in the annual breakdown referred to in paragraph 4 of this Article."

(3) In Article 59(4), point (f) is replaced by the following:

"(f) 100 % for an amount of EUR 100 million, in 2011 prices, allocated to Ireland, for an amount of EUR 500 million, in 2011 prices, allocated to Portugal and for an amount of EUR 7 million, in 2011 prices, allocated to Cyprus, on the condition that those Member States are receiving financial assistance in accordance with Articles 136 and 143 TFEU on 1 January 2014 or thereafter, until 2016 when the application of this provision shall be reassessed."

CHAPTER III

FINAL PROVISIONS

Article 11

Entry into force and application

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

It shall apply from 1 January 2014.

However:

- points (15), (17) and (18) of Article 6 shall apply from the date of entry into force of this Regulation;
- point (20) of Article 6 shall apply from 22 December 2013; and
- point (3) of Article 8 shall apply from the dates of application stated therein.

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

Done at Brussels, 17 December 2013.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

V. JUKNA

ANNEX I

Correspondence of Articles in measures under the 2007-2013 and the 2014-2020 programming periods

Regulation (EC) No 1698/2005	Regulation (EU) No 1305/2013
Article 20(a)(i): Vocational training and information	Article 14
Article 20(a)(ii): Setting up of Young Farmers	Article 19(1)(a)(i)
Article 20(a)(iii): Early retirement	/
Article 20(a)(iv): Use of advisory services	Article 15(1)(a)
Article 20 (a)(v): Setting up of management, relief and advisory services	Article 15(1)(b)
Article 20(b)(i): Modernisation of agricultural holdings	Article 17(1)(a)
Article 20(b)(ii): Improvement of the economic value of forests	Article 21(1)(d)
Article 20(b)(iii): Adding value to agricultural and forestry products	Article 17(1)(b) Article 21(1)(e)
Article 20(b)(iv): Cooperation for development of new products-process-technologies	Article 35
Article 20(b)(v): Agricultural and forestry infrastructure	Article 17(1)(c)
Article 20(b)(vi): Restoration-prevention actions	Article 18
Article 20(c)(i): Meeting Standards	/
Article 20(c)(ii): Food quality schemes	Article 16
Article 20(c)(iii): Information and promotion	Article 16
Article 20(d)(i): Semi-subsistence farming	Article 19(1)(a)(iii)
Article 20(d)(ii): Producer groups	Article 27
Article 36(a)(i): Natural handicap payments in mountains	Article 31
Article 36(a)(ii): Natural handicap payments in areas other than mountain areas	Article 31
Article 36(a)(iii): Natura 2000 and payments linked to Directive 2000/60/EC	Article 30
Article 36(a)(iv): Agri-environment payments	Article 28 Article 29
Article 36(v): Animal welfare payments	Article 33
Article 36(b)(i): First afforestation of agricultural land	Article 21(1)(a)
Article 36(b)(ii): First establishment of agroforestry systems	Article 21(1)(b)

Regulation (EC) No 1698/2005	Regulation (EU) No 1305/2013
Article 36(b)(iii): First afforestation of non-agricultural land	Article 21(1)(a)
Article 36(b)(iv): Natura 2000 payments	Article 30
Article 36(b)(v): Forest-environment payments	Article 34
Article 36(b)(vi): Restoring forestry potential and introducing preventive actions	Article 21(1)(c)
Article 36(b)(vii): Non-productive investments	Article 21(1)(d)
Measures under Regulation (EC) No 718/2007	Measures under Regulation (EU) No 1305/2013
Article 171(2)(a): Investments in agricultural holdings to restructure and to upgrade to Community standards	Article 17(1)(a)
Article 171(2)(c): Investments in processing and marketing of agriculture and fishery products to restructure those activities and to upgrade them to Community standards	Article 17(1)(b)

ANNEX II

The Annexes to Regulation (EC) No 73/2009 are amended as follows:

(1) In Annex I, the following row is inserted after that relating to "Specific support":

"Redistributive payment	Title III, Chapter 5a and Title V, Chapter 2a	Decoupled payment"
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(2) Annex II is amended as follows:

(a) Point A. "Environment" is replaced by the following:

1	Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)	Article 3(1), Article 3(2)(b), Article 4(1), (2) and (4) and Article 5(a), (b) and (d)
2	—	—
3	Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6)	Article 3
4	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
5	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6 and Article 13(1)(a)";

(b) point 9 of Point B. "Public, animal and plant health" is replaced by the following:

"9	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1)	Article 55, first and second sentence".
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(3) In Annex III, the entry for "Protection and management of water" is replaced by the following:

"Protection and management of water:	— Establishment of buffer strips along water courses ⁽¹⁾
Protect water against pollution and run-off, and manage the use of water	— Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures
	Protection of ground water against pollution: prohibition of direct discharge into groundwater and measures to prevent indirect pollution of groundwater through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Annex to the Directive 80/68/EEC in its version in force on the last day of its validity, as far as it relates to agricultural activity

⁽¹⁾ Note: The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC."

(4) In Annex VIII, the column for the year 2014 is replaced by the following:

"Table 1

<i>(thousand EUR)</i>	
Member State	2014
Belgium	544 047
Denmark	926 075
Germany	5 178 178
Greece	2 047 187
Spain	4 833 647
France	7 586 341
Ireland	1 216 547
Italy	3 953 394
Luxembourg	33 662
Netherlands	793 319
Austria	693 716
Portugal	557 667
Finland	523 247
Sweden	696 487
United Kingdom	3 548 576

Table 2 (*)

<i>(thousand EUR)</i>	
Bulgaria	642 103
Czech Republic	875 305
Estonia	110 018
Cyprus	51 344
Latvia	168 886
Lithuania	393 226
Hungary	1 272 786
Malta	5 240
Poland	2 970 020
Romania	1 428 531
Slovenia	138 980
Slovakia	377 419
Croatia	113 908

(*) Ceilings calculated taking into account of the schedule of increments provided for in Article 121."

(5) The following Annexes are inserted after Annex VIII:

"Annex VIIIa

Amounts resulting from the application of Article 136b in 2014

Germany: EUR 42 600 000

Sweden: EUR 9 000 000

Annex VIIIb

Average size of agricultural holding to be applied under Article 72a(4) and Article 125a(3)

Member State	Average size of agricultural holding (in hectares)
Belgium	29
Bulgaria	6
Czech Republic	89
Denmark	60
Germany	46
Estonia	39
Ireland	32
Greece	5
Spain	24
France	52
Croatia	5,9
Italy	8
Cyprus	4
Latvia	16
Lithuania	12
Luxembourg	57
Hungary	7
Malta	1
Netherlands	25
Austria	19
Poland	6
Portugal	13
Romania	3
Slovenia	6
Slovakia	28
Finland	34
Sweden	43
United Kingdom	54

Annex VIIIc

National ceilings referred to in Article 72a(3) and Article 125a(3)

(thousands EUR)

Belgium	505 266
Bulgaria	796 292
Czech Republic	872 809
Denmark	880 384
Germany	5 018 395
Estonia	169 366
Ireland	1 211 066
Greece	1 931 177
Spain	4 893 433
France	7 437 200
Croatia	265 785
Italy	3 704 337
Cyprus	48 643
Latvia	302 754
Lithuania	517 028
Luxembourg	33 432
Hungary	1 269 158
Malta	4 690
Netherlands	732 370
Austria	691 738
Poland	3 061 518
Portugal	599 355
Romania	1 903 195
Slovenia	134 278
Slovakia	394 385
Finland	524 631
Sweden	699 768
United Kingdom	3 591 683

Annex VIII d

Amounts for Bulgaria and Romania referred to in Article 125b(1)

Bulgaria	EUR 789 365 000
Romania	EUR 1 753 000 000"

(6) Annex XVIIa is replaced by the following:

"Annex XVIIa

Transitional national aid in Cyprus

<i>(EUR)</i>		
Sector	2013	2014
Cereals (durum wheat excluded)	141 439	113 151
Durum wheat	905 191	724 153
Milk and dairy	3 419 585	2 735 668
Beef	4 608 945	3 687 156
Sheep and goats	10 572 527	8 458 022
Pig sector	170 788	136 630
Poultry and eggs	71 399	57 119
Wine	269 250	215 400
Olive oil	3 949 554	3 159 643
Table grapes	66 181	52 945
Dried grapes	129 404	103 523
Processed tomatoes	7 341	5 873
Bananas	4 285 696	3 428 556
Tobacco	1 027 775	822 220
Deciduous fruit including stone fruit	173 390	138 712
Total	29 798 462	23 838 770"

COUNCIL REGULATION (EU, EURATOM) No 1311/2013

of 2 December 2013

laying down the multiannual financial framework for the years 2014-2020

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 312 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

After transmission of the draft legislative act to national parliaments,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The annual ceilings on commitments appropriations by category of expenditure and the annual ceilings on payment appropriations established by this Regulation must respect the ceilings set for commitments and own resources in Council Decision 2007/436/EC, Euratom ⁽¹⁾.
- (2) Taking into account the need for an adequate level of predictability for preparing and implementing medium-term investments, the duration of the multiannual financial framework (MFF) should be set at seven years starting on 1 January 2014. A review will take place in 2016 at the latest, following the European Parliament elections. This will allow the institutions, including the European Parliament elected in 2014, to reassess the priorities. The results of this review should be taken into account in any revision of this Regulation for the remaining years of the MFF. This arrangement is hereinafter referred to as "review/revision".
- (3) In the context of the mid-term review/revision of the MFF, the European Parliament, the Council and the Commission agree to jointly examine the most suitable

duration for the subsequent MFF before the Commission presents its proposals with a view to striking the right balance between the duration of the respective terms of office of the members of the European Parliament and the European Commission - and the need for stability for programming cycles and investment predictability.

- (4) Specific and maximum possible flexibility should be implemented to allow the Union to fulfil its obligations in compliance with Article 323 of the Treaty on the Functioning of the European Union (TFEU).
- (5) The following special instruments are necessary to allow the Union to react to specified unforeseen circumstances, or to allow the financing of clearly identified expenditure which cannot be financed within the limits of the ceilings available for one or more headings as laid down in the MFF, thereby facilitating the budgetary procedure: the Emergency Aid Reserve, the European Union Solidarity Fund, the Flexibility Instrument, the European Globalisation Adjustment Fund, the Contingency Margin, the specific flexibility to tackle youth unemployment and strengthen research and the global margin for commitments for growth and employment, in particular youth employment. Specific provision should therefore be made for a possibility to enter commitment appropriations into the budget over and above the ceilings set out in the MFF where it is necessary to use special instruments.
- (6) If it is necessary to mobilise the guarantees given under the general budget of the Union for the loans provided under the Balance of Payment Facility or the European Financial Stabilisation Mechanism set out in Council Regulation (EC) No 332/2002 ⁽²⁾ and in Council Regulation (EU) No 407/2010 ⁽³⁾, respectively, the necessary amount should be mobilised over and above the ceilings of the commitments and payments appropriations of the MFF, while respecting the own-resources ceiling.
- (7) The MFF should be laid down in 2011 prices. The rules for technical adjustments to the MFF to recalculate the ceilings and margins available should also be laid down.

⁽¹⁾ Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources (OJ L 163, 23.6.2007, p. 17).

⁽²⁾ Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).

⁽³⁾ Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

- (8) The MFF should not take account of budget items financed by assigned revenue within the meaning of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽¹⁾ (the "Financial Regulation").
- (9) This Regulation might need to be revised in case of unforeseen circumstances that cannot be dealt with within ceilings established as part of the MFF. It is therefore necessary to provide for revision of the MFF in such cases.
- (10) Rules should be laid down for other situations that might require the MFF to be adjusted or revised. Such adjustments or revisions might be related to the implementation of the budget, measures linking effectiveness of funds to sound economic governance, revision of the Treaties, enlargements, the reunification of Cyprus, or delayed adoption of new rules governing certain policy areas.
- (11) The national envelopes for cohesion policy are established on the basis of the statistical data and forecasts used for the July 2012 update of the Commission proposal for this Regulation. Given the forecasting uncertainties and the impact for the capped Member States, and to take account of the particularly difficult situation of Member States suffering from the crisis, the Commission will, in 2016, review all Member States' total allocations under the "Investment for growth and jobs" goal of cohesion policy for the years 2017 to 2020.
- (12) It is necessary to provide for general rules on interinstitutional cooperation in the budgetary procedure.
- (13) Specific rules are also necessary for dealing with large-scale infrastructure projects whose lifetime extends well beyond the period set for the MFF. It is necessary to establish maximum amounts for the contributions from the general budget of the Union to those projects, thereby ensuring that they do not have any impact on other projects financed from that budget.
- (14) The Commission should present a proposal for a new multiannual financial framework before 1 January 2018, to enable the institutions to adopt it sufficiently in advance of the start of the subsequent multiannual financial framework. This Regulation should continue to apply in the event that a new financial framework is not adopted before the end of the term of the MFF laid down in this Regulation.

- (15) The Economic and Social Committee and the Committee of the Regions were consulted and have adopted opinions⁽²⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

General provisions

Article 1

Multiannual Financial Framework

The multiannual financial framework for the period 2014 to 2020 (the "MFF") is set out in the Annex.

Article 2

Mid-term review/revision of the MFF

By the end of 2016 at the latest, the Commission shall present a review of the functioning of the MFF taking full account of the economic situation at that time as well as the latest macro-economic projections. This compulsory review shall, as appropriate, be accompanied by a legislative proposal for the revision of this Regulation in accordance with the procedures set out in the TFEU. Without prejudice to Article 7 of this Regulation, preallocated national envelopes shall not be reduced through such a revision.

Article 3

Compliance with the ceilings of the MFF

1. The European Parliament, the Council and the Commission shall, during each budgetary procedure and when implementing the budget for the year concerned, comply with the annual expenditure ceilings set out in the MFF.

The sub-ceiling for Heading 2 as set out in the Annex is established without prejudice to the flexibility between the two pillars of the Common Agricultural Policy (CAP). The adjusted ceiling to be applied to pillar I of the CAP following the transfers between the European Agricultural Fund for Rural Development and direct payments shall be laid down in the relevant legal act and the MFF shall be adjusted accordingly under the technical adjustment provided for in Article 6(1) of this Regulation.

2. The special instruments provided for in Articles 9 to 15 shall ensure the flexibility of the MFF and shall be laid down in order to allow the budget procedure to run smoothly. The commitment appropriations may be entered in the budget over and above the ceilings of the relevant headings laid down in the MFF where it is necessary to use the resources

⁽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⁾ Opinion of the European Economic and Social Committee on the 'Proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020' (OJ C 229, 31.7.2012, p. 32); Opinion of the Committee of the Regions on 'New Multiannual Financial Framework post-2013' (OJ C 391, 18.12.2012, p. 31).

from the Emergency Aid Reserve, the European Union Solidarity Fund, the Flexibility Instrument, the European Globalisation Adjustment Fund, the Contingency Margin, the specific flexibility to tackle youth unemployment and strengthen research and the global margin for commitments for growth and employment, in particular youth employment, in accordance with Council Regulation (EC) No 2012/2002 ⁽¹⁾, Regulation (EC) No 1927/2006 of the European Parliament and of the Council ⁽²⁾, and the Interinstitutional Agreement between the European Parliament, the Council and the Commission ⁽³⁾.

3. Where a guarantee for a loan covered by the general budget of the Union in accordance with Regulation (EC) No 332/2002 or Regulation (EU) No 407/2010 needs to be mobilised, it shall be over and above the ceilings laid down in the MFF.

Article 4

Respect of own resources ceiling

1. For each of the years covered by the MFF, the total appropriations for payments required, after annual adjustment and taking account of any other adjustments and revisions as well as the application of paragraphs 2 and 3 of Article 3, shall not be such as to produce a call-in rate for own resources that exceeds the own resources ceiling set in accordance with Decision 2007/436/EC, Euratom.

2. Where necessary, the ceilings set in the MFF shall be lowered by way of revision in order to ensure compliance with the own-resources ceiling set in accordance with Decision 2007/436/EC, Euratom.

Article 5

Global margin for payments

1. Every year, starting in 2015, as part of the technical adjustment referred to in Article 6, the Commission shall adjust the payment ceiling for the years 2015-2020 upwards by an amount equivalent to the difference between the executed payments and the MFF payment ceiling of the year n-1.

2. The annual adjustments shall not exceed the following maximum amounts (in 2011 prices) for the years 2018-2020 as compared to the original payment ceiling of the relevant years:

2018 - EUR 7 billion

2019 - EUR 9 billion

2020 - EUR 10 billion.

⁽¹⁾ Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

⁽²⁾ Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund (JO L 406, 30.12.2006, p. 1).

⁽³⁾ Interinstitutional Agreement between the European Parliament, the Council and the Commission of 2 December 2013 on budgetary discipline, cooperation in budgetary matters and on sound financial management (OJ C 373, 20.12.2013, p. 1).

3. Any upward adjustment shall be fully offset by a corresponding reduction of the payment ceiling for year n-1.

Article 6

Technical adjustments

1. Each year the Commission, acting ahead of the budgetary procedure for year n+1, shall make the following technical adjustments to the MFF:

- (a) revaluation, at year n+1 prices, of the ceilings and of the overall figures for appropriations for commitments and appropriations for payments;
- (b) calculation of the margin available under the own-resources ceiling set in accordance with Decision 2007/436/EC, Euratom;
- (c) calculation of the absolute amount of the Contingency Margin provided for in Article 13;
- (d) calculation of the global margin for payments provided for in Article 5;
- (e) calculation of the global margin for commitments provided for in Article 14.

2. The Commission shall make the technical adjustments referred to in paragraph 1 on the basis of a fixed deflator of 2 % per year.

3. The Commission shall communicate the results of the technical adjustments referred to in paragraph 1 and the underlying economic forecasts to the European Parliament and the Council.

4. Without prejudice to Article 7 and 8, no further technical adjustments shall be made in respect of the year concerned, either during the year or as ex-post corrections during subsequent years.

Article 7

Adjustment of cohesion policy envelopes

1. To take account of the particularly difficult situation of Member States suffering from the crisis, the Commission shall in 2016, together with the technical adjustment for the year 2017, review all Member States' total allocations under the "Investment for growth and jobs" goal of cohesion policy for the years 2017 to 2020, applying the allocation method defined in the relevant basic act on the basis of the then available most recent statistics and of the comparison, for the capped Member States, between the cumulated national GDP observed for the years 2014 and 2015 and the cumulated national GDP estimated in 2012. It shall adjust those total allocations whenever there is a cumulative divergence of more than +/- 5 %.

2. The adjustments required shall be spread in equal proportions over the years 2017-2020 and the corresponding ceilings of the MFF shall be modified accordingly. The payment ceilings shall also be modified accordingly to ensure an orderly progression in relation to the appropriations for commitments.

3. In its technical adjustment for the year 2017, following the mid-term review of the eligibility of Member States for the Cohesion Fund provided for in Article 90(5) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽¹⁾, in case a Member State either becomes newly eligible to the Cohesion Fund or loses its existing eligibility, the Commission shall add or subtract the resulting amounts to or from the funds allocated to the Member State for the years 2017 to 2020.

4. The required adjustments resulting from paragraph 3 shall be spread in equal proportions over the years 2017-2020 and the corresponding ceilings of the MFF shall be modified accordingly. The payment ceilings shall also be modified accordingly to ensure an orderly progression in relation to the appropriations for commitments.

5. The total net effect, whether positive or negative, of the adjustments referred to in paragraphs 1 and 3 shall not exceed EUR 4 billion.

Article 8

Adjustments related to measures linking effectiveness of funds to sound economic governance

In the case of the lifting by the Commission of a suspension of budgetary commitments concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development or the European Maritime and Fisheries Fund in the context of measures linking effectiveness of funds to sound economic governance, the Commission, in accordance with the relevant basic act, shall transfer the suspended commitments to the following years. Suspended commitments of year *n* may not be re-budgeted beyond year *n*+3.

CHAPTER 2

Special instruments

Article 9

Emergency Aid Reserve

1. The Emergency Aid Reserve is intended to allow for a rapid response to specific aid requirements of third countries

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

following events which could not be foreseen when the budget was established, first and foremost for humanitarian operations, but also for civil crisis management and protection, and situations of particular pressure resulting from migratory flows at the Union's external borders where circumstances so require.

2. The annual amount of the Reserve is fixed at EUR 280 million (2011 prices) and may be used up to year *n*+1 in accordance with the Financial Regulation. The Reserve shall be entered in the general budget of the Union as a provision. The portion of the annual amount stemming from the previous year shall be drawn on first. That portion of the annual amount from year *n* which is not used in year *n*+1 shall lapse.

Article 10

European Union Solidarity Fund

1. The European Union Solidarity Fund is intended to allow financial assistance in the event of major disasters occurring on the territory of a Member State or of a candidate country, as defined in the relevant basic act. There shall be a ceiling on the annual amount available for that Fund of EUR 500 million (2011 prices). On 1 October each year, at least one quarter of the annual amount shall remain available in order to cover needs arising until the end of that year. The portion of the annual amount not entered in the budget may be used up to year *n*+1. The portion of the annual amount stemming from the previous year shall be drawn on first. That portion of the annual amount from year *n* which is not used in year *n*+1 shall lapse.

2. In exceptional cases and if the remaining financial resources available in the European Union Solidarity Fund in the year of occurrence of the disaster, as defined in the relevant basic act, are not sufficient to cover the amount of assistance considered necessary by the European Parliament and the Council, the Commission may propose that the difference be financed through the annual amounts available for the following year.

Article 11

Flexibility Instrument

1. The Flexibility Instrument is intended to allow the financing, for a given financial year, of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more other headings. There shall be a ceiling on the annual amount available for the Flexibility Instrument of EUR 471 million (2011 prices).

2. The unused portion of the annual amount of the Flexibility Instrument may be used up to year *n*+3. The portion of the annual amount stemming from previous years shall be used first, in order of age. That portion of the annual amount from year *n* which is not used in year *n*+3 shall lapse.

*Article 12***European Globalisation Adjustment Fund**

1. The European Globalisation Adjustment Fund, the objectives and scope of which are defined in Regulation (EC) No 1927/2006 of the European Parliament and of the Council, shall not exceed a maximum annual amount of EUR 150 million (2011 prices).

2. The appropriations for the European Globalisation Adjustment Fund shall be entered in the general budget of the Union as a provision.

*Article 13***Contingency Margin**

1. A Contingency Margin of up to 0,03 % of the Gross National Income of the Union shall be constituted outside the ceilings of the MFF, as a last-resort instrument to react to unforeseen circumstances. It may be mobilised only in relation to an amending or annual budget.

2. Recourse to the Contingency Margin shall not exceed, at any given year, the maximum amount foreseen in the annual technical adjustment of the MFF, and shall be consistent with the own-resources ceiling.

3. Amounts made available through the mobilisation of the Contingency Margin shall be fully offset against the margins in one or more MFF headings for the current or future financial years.

4. The amounts thus offset shall not be further mobilised in the context of the MFF. Recourse to the Contingency Margin shall not result in exceeding the total ceilings of commitment and payment appropriations laid down in the MFF for the current and future financial years.

*Article 14***Global margin for commitments for growth and employment, in particular youth employment**

1. Margins left available below the MFF ceilings for commitment appropriations for the years 2014-2017 shall constitute a Global MFF Margin for commitments, to be made available over and above the ceilings established in the MFF for the years 2016 to 2020 for policy objectives related to growth and employment, in particular youth employment.

2. Each year, as part of the technical adjustment provided for in Article 6, the Commission shall calculate the amount available. The Global MFF Margin or part thereof may be mobilised by the European Parliament and the Council in the framework of the budgetary procedure pursuant to Article 314 TFEU.

*Article 15***Specific flexibility to tackle youth unemployment and strengthen research**

Up to EUR 2 543 million (in 2011 prices) may be frontloaded in 2014 and 2015, as part of the annual budgetary procedure, for specified policy objectives relating to youth employment, research, ERASMUS in particular for apprenticeships, and Small and Medium-sized Enterprises. That amount shall be fully offset against appropriations within and/or between headings in order to leave unchanged the total annual ceilings for the period 2014-2020 and the total allocation per heading or sub-heading over the period.

*Article 16***Contribution to the financing of large-scale projects**

1. A maximum amount of EUR 6 300 million (in 2011 prices) shall be available for the European satellite navigation programmes (EGNOS and Galileo) from the general budget of the Union for the period 2014-2020.

2. A maximum amount of EUR 2 707 million (in 2011 prices) shall be available for the International Thermonuclear Experimental Reactor project (ITER) from the general budget of the Union for the period 2014-2020.

3. A maximum amount of EUR 3 786 million (in 2011 prices) shall be available for Copernicus (the European Earth Observation Programme) from the general budget of the Union for the period 2014-2020.

*CHAPTER 3***Revision***Article 17***Revision of the MFF**

1. Without prejudice to Article 4(2), Articles 18 to 22 and Article 25, in the event of unforeseen circumstances, the MFF may be revised in compliance with the own-resources ceiling set in accordance with Decision 2007/436/EC, Euratom.

2. As a general rule, any proposal for a revision of the MFF in accordance with paragraph 1 shall be presented and adopted before the start of the budgetary procedure for the year or the first of the years concerned.

3. Any proposal for revision of the MFF in accordance with paragraph 1 shall examine the scope for reallocating expenditure between the programmes covered by the heading concerned by the revision, with particular reference to any expected under-utilisation of appropriations. The objective should be that a significant amount, in absolute terms and as a percentage of the new expenditure planned, shall be within the existing ceiling for the heading.

4. Any revision of the MFF in accordance with paragraph 1 shall take into account the scope for offsetting any raising of the ceiling for one heading by the lowering of the ceiling for another.

5. Any revision of the MFF in accordance with paragraph 1 shall maintain an appropriate relationship between commitments and payments.

Article 18

Revision related to implementation

When notifying the European Parliament and the Council of the results of the technical adjustments to the MFF, the Commission shall present any proposals to revise the total appropriations for payments which it considers necessary, in the light of implementation, to ensure a sound management of the yearly payments ceilings and, in particular, their orderly progression in relation to the appropriations for commitments. The European Parliament and the Council shall decide on those proposals before 1 May of year *n*.

Article 19

Revision following new rules or programmes for the Structural Funds, the Cohesion Fund the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, the Asylum and Migration Fund and the Internal Security Fund

1. In the event of the adoption after 1 January 2014 of new rules or programmes under shared management for the Structural Funds, the Cohesion Fund, the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, the Asylum and Migration Fund and the Internal Security Fund, the MFF shall be revised in order to transfer to subsequent years, in excess of the corresponding expenditure ceilings, allocations not used in 2014.

2. The revision concerning the transfer of unused allocation for the year 2014 shall be adopted before 1 May 2015.

Article 20

Revision of the MFF in case of a revision of the Treaties

Should a revision of the Treaties with budgetary implications occur between 2014 and 2020, the MFF shall be revised accordingly.

Article 21

Revision of the MFF in the event of enlargement of the Union

If there is an accession or accessions to the Union between 2014 and 2020, the MFF shall be revised to take account of the expenditure requirements resulting therefrom.

Article 22

Revision of the MFF in the event of the reunification of Cyprus

In the event of the reunification of Cyprus between 2014 and 2020, the MFF shall be revised to take account of the comprehensive settlement of the Cyprus problem and the additional financial needs resulting from the reunification.

Article 23

Interinstitutional cooperation in the budgetary procedure

The European Parliament, the Council and the Commission (hereinafter "the institutions") shall take measures to facilitate the annual budgetary procedure.

The institutions shall cooperate in good faith throughout the procedure with a view to reconciling their positions. The institutions shall, at all stages of the procedure, cooperate through appropriate interinstitutional contacts in order to monitor the progress of the work and analyse the degree of convergence.

The institutions shall ensure that their respective calendars of work are coordinated as far as possible, in order to enable proceedings to be conducted in a coherent and convergent fashion, leading to the final adoption of the general budget of the Union.

Trilogues may be held at all stages of the procedure and at different levels of representation, depending on the nature of the expected discussions. Each institution, in accordance with its own rules of procedure, shall designate its participants for each meeting, define its mandate for the negotiations and inform the other institutions in good time of the arrangements for the meetings.

Article 24

Unity of the budget

All expenditure and revenue of the Union and Euratom shall be included in the general budget of the Union in accordance with Article 7 of the Financial Regulation, including expenditure resulting from any relevant decision taken unanimously by the Council after consulting the European Parliament, in the framework of Article 332 TFEU.

Article 25

Transition towards the next multiannual financial framework

Before 1 January 2018, the Commission shall present a proposal for a new multiannual financial framework.

If no Council regulation determining a new multiannual financial framework has been adopted before 31 December 2020, the ceilings and other provisions corresponding to the last year of the MFF shall be extended until a regulation determining a new financial framework is adopted. If a new Member State accedes to the Union after 2020, the extended financial framework shall, if necessary, be revised in order to take the accession into account.

*Article 26***Entry into force**

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

It shall apply from 1 January 2014.

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

Done at Brussels, 2 December 2013.

For the Council
The President
E. GUSTAS

ANNEX I

MULTIANNUAL FINANCIAL FRAMEWORK (EU-28)

(EUR million - 2011 prices)

COMMITMENT APPROPRIATIONS	2014	2015	2016	2017	2018	2019	2020	Total 2014–2020
1. Smart and Inclusive Growth	60 283	61 725	62 771	64 238	65 528	67 214	69 004	450 763
1a: Competitiveness for growth and jobs	15 605	16 321	16 726	17 693	18 490	19 700	21 079	125 614
1b: Economic, social and territorial cohesion	44 678	45 404	46 045	46 545	47 038	47 514	47 925	325 149
2. Sustainable Growth: Natural Resources	55 883	55 060	54 261	53 448	52 466	51 503	50 558	373 179
of which: Market related expenditure and direct payments	41 585	40 989	40 421	39 837	39 079	38 335	37 605	277 851
3. Security and citizenship	2 053	2 075	2 154	2 232	2 312	2 391	2 469	15 686
4. Global Europe	7 854	8 083	8 281	8 375	8 553	8 764	8 794	58 704
5. Administration	8 218	8 385	8 589	8 807	9 007	9 206	9 417	61 629
of which: Administrative expenditure of the institutions	6 649	6 791	6 955	7 110	7 278	7 425	7 590	49 798
6. Compensations	27	0	0	0	0	0	0	27
TOTAL COMMITMENT APPROPRIATIONS	134 318	135 328	136 056	137 100	137 866	139 078	140 242	959 988
as a percentage of GNI	1,03 %	1,02 %	1,00 %	1,00 %	0,99 %	0,98 %	0,98 %	1,00 %
TOTAL PAYMENT APPROPRIATIONS	128 030	131 095	131 046	126 777	129 778	130 893	130 781	908 400
as a percentage of GNI	0,98 %	0,98 %	0,97 %	0,92 %	0,93 %	0,93 %	0,91 %	0,95 %
Margin available	0,25 %	0,25 %	0,26 %	0,31 %	0,30 %	0,30 %	0,32 %	0,28 %
Own Resources Ceiling as a percentage of GNI	1,23 %	1,23 %	1,23 %	1,23 %	1,23 %	1,23 %	1,23 %	1,23 %

DECISIONS

DECISION No 1312/2013/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 December 2013

on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT):
the contribution of the EIT to a more innovative Europe

(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 173(3) thereof,

Having regard to Regulation (EC) No 294/2008 of the European Parliament and of the Council ⁽¹⁾,

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 ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Regulation (EC) No 294/2008 requires the Commission to submit a proposal for the first Strategic Innovation Agenda ("the SIA"), on the basis of the draft provided by the European Institute of Innovation and Technology ("the EIT").
- (2) The SIA should define the priority fields and the long-term strategy of the EIT and include an assessment of its economic impact and capacity to generate best innovation added-value. The SIA should take into account the results of the monitoring and evaluation of the EIT.

- (3) The first SIA should include detailed specifications and terms of reference concerning the operation of the EIT, the procedures for co-operation between the Governing Board and the Knowledge and Innovation Communities ("the KICs") and the methods of funding the KICs,

HAVE ADOPTED THIS DECISION:

Article 1

The Strategic Innovation Agenda ("the SIA") of the European Institute of Innovation and Technology for the period from 2014 to 2020 as set out in the annex is hereby adopted.

Article 2

The SIA shall be implemented in accordance with Regulation (EC) No 294/2008.

Article 3

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

Done at Strasbourg, 11 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
V. LEŠKEVIČIUS

⁽¹⁾ Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology (OJ L 97, 9.4.2008, p. 1).

⁽²⁾ OJ C 181, 21.6.2012, p. 122.

⁽³⁾ Position of the European Parliament of 21 November 2013 (not yet published in the Official Journal)

ANNEX

THE EIT STRATEGIC INNOVATION AGENDA

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 - 2.1.1. Consolidating and fostering growth and impact of the existing KICs
 - 2.1.2. Creating new KICs
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3. Effective decision making and working arrangements
 - 3.1. Streamlining and clarifying EIT decision-making
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Factsheet 2: Raw Materials – Sustainable Exploration, Extraction, Processing, Recycling and Substitution

Factsheet 3: Food4Future – Sustainable Supply Chain from Resources to Consumers

Factsheet 4: Added-value Manufacturing

Factsheet 5: Urban Mobility

Summary of Key Actions*Section 2.1.1 Consolidating and fostering growth and impact of the existing KICs*

The EIT will:

- Encourage KICs to develop a greater variety of and provide advice on educational and training activities and to raise awareness of the existence of these activities.
- Gradually set-up competitive review mechanisms for the allocation of a percentage of the KICs grant, which will be based on KICs' business plans and performance and which will take into account the fact that KICs grow at different speeds.
- Incentivise KICs to develop joint activities on horizontal issues.

- Set up a system of peer evaluations for EIT labelled qualifications and engage in dialogue with national and international quality assurance bodies to promote a consistent approach.

Section 2.1.2 Creating new KICs

The EIT will

- Prepare a selection procedure for each wave of KICs which allows sufficient time for KIC applicants to prepare proposals.
- Launch calls for five new KICs as follows: a call for two new KICs in 2014 in the themes of Healthy Living and Active Ageing and Raw Materials; a call for two new KICs in 2016 in the themes of Food4Future and Added-value manufacturing and a call for one new KIC in 2018 in the theme of Urban Mobility.
- Make best efforts to ensure that as many potential interested parties as possible are made aware of the future KIC selection procedures.
- Ensure that framework conditions of future KIC selection procedures are conducive to an optimal outcome, notably by providing clear guidance concerning requirements and processes, and by allowing sufficient time for proposers to organise the partnership.

Section 2.2 Enhancing EIT's Impact

The EIT will

- Encourage participation in outreach activities and in particular provide support, as appropriate, to the KICs in relation to the Regional Innovation Scheme.
- Set up/customise a web based tool to provide a platform for knowledge sharing and networking around the EIT.
- Build and support a functional and strong network of graduates from EIT/KIC educational and training activities ('EIT alumni').
- Make lessons learned and successes from KICs systematically accessible to the wider Union innovation community and beyond. This may include the development of a repository of open courseware from the EIT's and KICs' educational and training activities.
- Ensure strong participation of the private sector, including SMEs, in the knowledge triangle.

Section 2.3 New delivery mechanisms and results-oriented monitoring

The EIT will

- Set up a simplification agenda, including benchmarks to assess progress, and report to the Commission on its implementation progress through the Annual Activity Report; ensure that new models of simplification are disseminated across the Union and inform other Union initiatives.
- Establish, in cooperation with the Commission and the KICs, a comprehensive system to monitor the EIT's contribution to Horizon 2020, the EIT's impact via its own and KIC activities and KIC results. The EIT will report on all its monitoring activities in its annual activity report to be sent to the European Parliament and to the Council.

Section 3.1 Streamlining and clarifying EIT decision-making

The EIT will

- Ensure through a smart human resource strategy, including systematic use of internal and external expertise, and internal management procedures that the EIT will develop into a reference institution for innovative governance.
- Take concrete measures to further promote a culture of openness and transparency.

Section 3.2 Investing in KICs: EIT-KICs relations

The EIT will

- Provide clear and coherent guidance on expectations, obligations and responsibilities throughout the entire life cycle of the KICs.
- Develop in close cooperation with the KICs a capacity within EIT headquarters to facilitate cross-KIC exchange and learning.
- Provide a number of services to KICs on horizontal issues where efficiency gains can be achieved, as well as implement other corporate policies to the same end.
- Provide guidance on affiliation and association of partners which are not able to become fully fledged investors and partners of a KIC.

Section 3.3 Engaging with stakeholders

The EIT will

- Set up a regular EIT Stakeholder Forum and its special configuration of Member States' representatives, to facilitate interaction and mutual learning with the wider innovation community from across the knowledge triangle, and including national and regional authorities. In this context, the web-based platform can further help foster interaction between participants.
- Make systematic use of existing associations of universities, business and research organisations and cluster organisations as platforms for the exchange of knowledge and dissemination of results.
- Establish a mechanism, such as an annual meeting between the EIT, the KICs and relevant services of the European Commission, to further facilitate synergies between the EIT and the KICs on the one hand, and other Union initiatives on the other.

THE EIT STRATEGIC INNOVATION AGENDA

1. The European Institute of Innovation and Technology: A Union innovation player

This Strategic Innovation Agenda (SIA) outlines the priorities for the European Institute of Innovation and Technology (EIT) over the period 2014-2020 as well as its mode of operation. It is therefore a key tool of European policy makers to steer the strategic direction of the EIT, while leaving considerable autonomy to the EIT in defining the ways and means of achieving the set goals.

The SIA is the result of an in-depth process that has sought to take stock of the EIT experience so far, and to fully reflect the reality of the European innovation landscape. It is based on a first SIA draft from the EIT Governing Board submitted to the European Commission on 15 June 2011, in conformity with the requirements of the Regulation (EC) No 294/2008 of the European Parliament and of the Council ⁽¹⁾.

It also builds on the results of an independent evaluation of the EIT's initial period as well as on a consultation process open to all those having a current or potential stake in the EIT's activities, including businesses, higher education institutions and research organisations, as well as national and regional authorities.

1.1. EIT: Addressing societal challenges via innovation in the knowledge triangle

In a rapidly changing world, Europe's pathway to the future rests on growth which is smart, sustainable and inclusive. To achieve this goal and to remain competitive in the global knowledge economy and society, the 'knowledge triangle' of higher education, research and innovation and the interaction between these three sides have been recognised as key driving forces. The European Union has acted accordingly and identified these fields as policy priorities in its Europe 2020 strategy. These priorities are notably implemented through the flagship initiatives 'Innovation Union' and 'Youth on the Move', which form the overarching policy framework for Union actions in these fields. They are complemented by the other flagship initiatives e.g. on an 'Integrated Industrial Policy for the Globalisation Era', 'Digital Agenda for Europe' and on a 'Resource-Efficient Europe'. The EIT will fully contribute to achieving the goals of these flagship initiatives.

⁽¹⁾ Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology (OJ L 97, 9.4.2008, p. 1).

The reasons for putting higher education, research and innovation at centre stage are straightforward. In the context of the knowledge economy and increasing global competition and facing a demographic challenge at home, Europe's future economic growth and jobs will increasingly come from innovation breakthroughs in products, services and business models as well as from its ability to nurture, attract and retain talent. While there are individual success stories across Europe, the Union needs to catch up with global innovation leaders. Moreover, the Union is facing increased competition for talent from new centres of excellence in emerging economies.

Europe needs to further strengthen its efforts in higher education, research and innovation and to embrace a strong, open and true entrepreneurial culture, which is essential to nurture and support capturing the value of research and innovation, for setting-up new ventures and achieve actual market deployment of innovations in potential high-growth sectors. Europe needs to foster the role of higher education institutions as engines of innovation, as talented people need to be equipped with the right skills, knowledge and attitudes in order to drive innovation forward.

The EIT has been set up precisely to this end – to contribute to sustainable economic growth and competitiveness by reinforcing the innovation capacity of the Union and its Member States and to boost their capacity to convert outputs from research into high value products and services. By fully integrating the knowledge triangle of higher education, research and innovation, the EIT will strongly contribute to tackling in particular societal challenges under Horizon 2020 and bring about systemic change in the way European innovation players collaborate.

To achieve this goal, the EIT combines strategic orientation at EIT level with a bottom-up approach within the thematic remit of its Knowledge and Innovation Communities (KICs). KICs are highly integrated pan-European partnerships, bringing together excellent universities, research centres, small and large companies and other innovation actors on a long-term basis around specific societal challenges. Each KIC is organised around a small number of interconnected co-location centres where partners work closely together on a daily basis and share common strategic objectives. Co-location centres build on existing centres of excellence, developing them further into local innovation ecosystems and linking them together into a broader network of innovation nodes across Europe. Within the EIT framework, the individual KICs have been given a large degree of autonomy in defining their internal organisation, composition, agenda and working methods, allowing them to choose the approach that is best suited to meet their objectives. The EIT should act as a role model across Europe by showing effective and light touch governance. At strategic level, the EIT organizes the selection process of KICs, according to the thematic areas determined by the European Parliament and the Council, and coordinates them with a flexible framework, supports and advises them in administrative matters, where appropriate, and disseminates their best governance and funding models. Cross-KIC coordination and cooperation should be promoted by the EIT in order to ensure synergies and added-value.

Through the KICs, the EIT tries to accelerate innovation and to help create multidisciplinary and interdisciplinary environments where innovation is more likely to thrive and to generate breakthroughs in the way higher education, research and business collaborate. This approach helps address the increasingly complex and interlinked societal challenges set out in Horizon 2020 combining sectoral and cross-sectoral innovation and bringing together excellent people from different sectors, backgrounds and disciplines – who otherwise would not necessarily meet – to jointly find solutions to the challenge.

Achievements

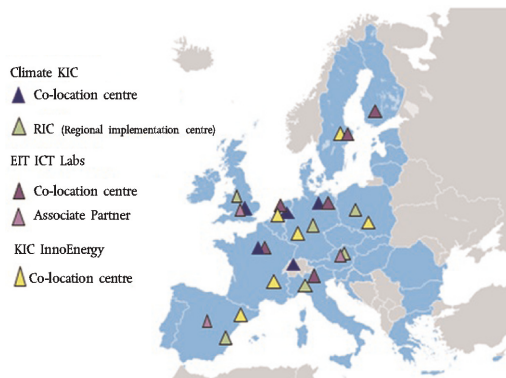
The EIT has completed its initial phase, which was dedicated to launching its operations through the first KICs and to put in place the EIT decision making and executive functions – Governing Board and headquarters. The EIT has also been successful in reaching its main objective - the full integration of the entire innovation chain, bringing together higher education institutions, research organisations and businesses via three initial KICs, established in 2010 in areas identified by the European Parliament and the Council as essential to Europe's future development. These are sustainable energy ('KIC InnoEnergy'), climate change adaptation and mitigation ('ClimateKIC') and future information and communication society ('EIT ICT Labs').

Moreover, the EIT is now consolidating itself as an innovation institution through its headquarters in Budapest. It has also set up the EIT Foundation, a legally independent organisation dedicated to promoting and supporting the work and activities of the EIT, and to enhancing the EIT's societal impact.

KICs on their way to world-class integrated partnerships

Established in 2010, the first three KICs have realised their first activities in 2011. In spite of their still being short of experience, they have succeeded in achieving critical mass in their respective areas, including a balanced participation from the different components of the knowledge triangle. The combined strength of partners in a KIC – both in number and in the weight they represent in their respective fields – gives them the potential to be world-class.

Graph 1- KICs co-location



The KICs have followed differentiated approaches in building up their strategies and governance structures, reflecting different thematic fields. One KIC has been set up as a company while two others are non-profit associations. All are structured around approximately 30 core partners and five to six co-location centres, which are usually flanked by a varying number of additional affiliate partners, including small and medium-sized enterprises (SMEs).

The set-up of the KICs as single legal entities led by a Chief Executive Officer (CEO) provides a clear departure from a traditional multi-beneficiaries approach. Moreover, all KICs follow business logic for the strategic planning of their activities, and all KICs have implemented the co-location concept: bringing diverse teams together in one physical place, acting as a clearing house for many KIC activities, and combining competences and skills developed in different areas of specialisation at pan-European level. Business in particular will play a strong role in realising the KICs' activities and KICs should be able to mobilise investment and long term commitment from the business sector.

KICs activities span the entire innovation chain and include among others the setting up of EIT-labelled Masters and PhD programmes which combine excellent science with entrepreneurship education, business creation services, and mobility schemes. With the KICs' initial activities focused on talent and people, first results have been achieved on education and entrepreneurship, including the setting up of Masters and PhD programmes. Two KICs have joined forces and they co-operate in a joint Masters programme in Smart Grids.

The KICs' achievements in their first year (2010-2011) are promising:

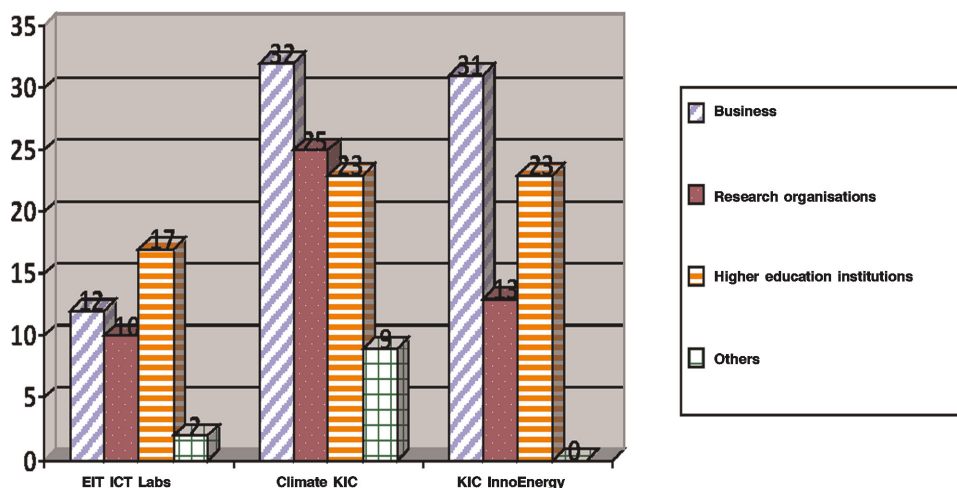
Nearly 500 students completed their training on summer courses and more than 200 students are presently enrolled in specific KIC-branded Masters courses. Demand from talented people is high: KIC InnoEnergy for example received 950 applications for their Masters course with 155 students who could be admitted. Students who graduated from ClimateKIC courses in 2010 and 2011 have formed an alumni association with the aim to maintain long-term involvement with the KIC.

Six start-ups have already been created with seed money from prizes and awards or with support from the KICs. More than 50 start-ups are presently undergoing incubation activities. EIT ICTLabs is supporting 18 small companies with business coaches.

Links within the knowledge triangle were established at regional level via cross-disciplinary professional development programmes, such as Climate KICs' 'Pioneers in practice' programme (59 individuals have attended this mobility scheme so far).

New Intellectual Property (IP) rules were established stipulating sharing the profits from IP rights between companies involved and the KIC legal entity.

Graph 2 - KIC partners 2011 (Business, HE, Research Organisations)



1.2. EIT added value: distinguishing features

The EIT approach is characterized by a number of elements by which it brings true added value at Union level:

- Overcoming fragmentation via long-term integrated partnerships and achieving critical mass through its European dimension: Building on existing cooperation initiatives, the EIT brings the selected partnerships in the KICs to a more permanent and strategic level. KICs allow world-class partners to unite in new configurations, optimize existing resources and develop new and, where appropriate, open innovation models, access new business opportunities via new value chains addressing higher risk, and larger scale challenges. Moreover, while there are a significant number of centres of excellence across the Member States, they often do not attain the critical mass for global competition individually. The KICs' co-location centres offer strong local actors the opportunity to closely connect to other excellent partners across borders, thereby allowing them to act and be recognized globally.
- Enhancing the impact of investments on education, research and innovation and testing new ways for innovation governance: The EIT acts as an "innovation catalyst", adding value to the existing research base, by accelerating the take-up and exploitation of technologies and research outcomes and by transferring research results to education. Innovation activities contribute in turn to align and leverage research investments and to make education and training activities more responsive to business needs. To this end, the EIT has been equipped with a substantial degree of flexibility to test out new innovation models, allowing for true differentiation in the KICs' governance and funding models and quick adaptation to better cope with emerging opportunities.
- Nurturing talent across borders and fostering entrepreneurship through knowledge triangle integration: The EIT nurtures people-driven innovation and puts students, researchers, and entrepreneurs at the heart of its efforts. It provides new career paths and mobility options between academia and the private sector, and innovative schemes for professional development. The EIT label attached to innovative KICs' Masters and PhD programmes is expected to contribute to creating an internationally recognized brand of excellence helping to attract talent from Europe and abroad. Entrepreneurship is fostered through a new generation of world-class students, including PhD students, equipped with the knowledge and attitudes to turn ideas into new business opportunities. These students have a key role in the integration of the knowledge triangle.
- Smart funding through leverage combined with a results- and business-oriented approach: The EIT provides up to 25 % of the KICs budget and catalyzes 75 % of financial resources from a wide range of public, private and third sector partners, representing an entrepreneurial approach in itself, and creating a significant leverage effect by pooling large-scale investment and streamlining different sources of public and private towards jointly agreed strategies. KICs will make internal provisions to avoid double funding of activities at national and EIT level.

Moreover, by focussing on both market and societal impact, the EIT follows a results-oriented approach. KICs operate according to a business logic, on the basis of annual business plans, including an ambitious portfolio of activities from education to business creation, with clear targets, deliverables and key performance indicators (KPIs) against which they are measured.

1.3. *Synergies and complementarities with other policy and funding initiatives*

The inter-relationships between research, innovation and higher education are increasingly being recognised within Union initiatives and programmes. There is great potential for mutually reinforcing actions at European, national and regional level. At Union level, the strategic framework provided by Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) – will further ensure these synergies are fully exploited.

The EIT will strongly contribute to the objectives set out in Horizon 2020, in particular by addressing societal challenges in a complementary way to other initiatives in these areas. Within Horizon 2020, the EIT will be part of the "societal challenges" objective but following the approach of seamless interaction across objectives, it will also contribute to the "industrial leadership" objective by stimulating results-driven research and fostering the creation of high growth innovative SMEs. Finally, it will contribute to the creation of an "excellent science base" objective by fostering mobility across boundaries – of disciplines, sectors and countries – and by embedding entrepreneurship and a risk-taking culture in innovative post-graduates degrees.

The EIT will thereby significantly contribute to promoting the framework conditions that are needed to realise the innovative potential of Union research and to promote the completion of the European Research Area (ERA).

Moreover, the EIT brings a fully fledged and necessary education dimension to the Union's research and innovation policy. Via innovative, entrepreneurial education it plays an important bridging role between the research and innovation framework and education policies and programmes and provides the long term commitment needed to deliver sustainable changes in higher education. Notably through new, trans and interdisciplinary EIT-labelled degrees, awarded by participating higher education institutions in accordance with national rules and accreditation procedures, the EIT is leading a collaborative effort towards education for innovation with clear linkage to the broader European agenda for the modernisation of higher education institutions thereby promoting the European Higher Education Area.

Moreover, there are opportunities for mutually reinforcing interaction with the Union's Cohesion Policy by addressing the linkages between the local and global aspects of innovation. Co-location centres provide for cross-border collaboration and are well positioned to capitalise on various funding schemes from their respective regions. The co-location centres play a major role in strengthening the local-global connectivity of the KIC as a whole, including through close co-operation with regional authorities, in particular those involved in designing and delivering the Regional Innovation Strategies for Smart Specialisation (RIS3). Furthermore, linkages between KICs and local cluster organisations could be strengthened to increase the involvement of SMEs in the activities of the KICs. While opportunities for synergies differ depending on the thematic area of a KIC, a number of initiatives and programmes at Union level seem particularly likely to offer benefits from cooperation and coordination. As the very concept of the EIT/KICs rests on adding value to existing European excellence, the KICs – present and future – will by definition seek to explore these synergies to a maximum. KICs are expected to add value to initiatives that may exist in the relevant areas, including Joint Programming Initiatives (JPIs), European Innovation Partnerships (EIPs) and Public Private Partnerships (PPPs).

Joint Programming Initiatives, a key instrument for addressing fragmentation in research, should provide the nucleus of the pan-European KIC research base, where appropriate. In turn, KICs can speed up and foster the exploitation of excellent public research pooled together by the JPIs, thereby addressing fragmentation in innovation. The Joint Technology Initiatives (JTIs) and the newly established Public and Private Partnerships provide platforms for promotion of large-scale industry-driven research and enhance the development of major technologies. KICs can help to catalyse these major research investments to boost technology transfer and commercialisation and to develop new ventures within existing business via entrepreneurial talent. Through its knowledge triangle approach, the EIT will complement investment of the European Research Council (ERC) on world-class frontier research by addressing the whole innovation chain from ideas to application and exploitation and provide additional opportunities in innovation and exposure to entrepreneurship to 'Marie Skłodowska-Curie' researchers and 'Erasmus +' students to help foster the development of the European Research Area and the European Higher Education Area.

The upcoming European Innovation Partnerships will provide overarching frameworks to facilitate alignment and smart synergies among supply and demand-driven research and innovation instruments and policies. The KICs can contribute to the EIPs through their distributed nature and on the ground experience, and in particular by developing the necessary human capital, educating key actors such as entrepreneurs and researchers, and identifying framework conditions and best practise on policy, regulatory or standardisation issues in their relevant sector.

In practice, opportunities for synergies will materialise in different ways, from KIC to KIC and challenge to challenge. Today, linkages are being developed at KIC level with other initiatives, varying according to the specificities of each KIC and its thematic area. In addition, the EIT should foster synergies and interaction of the KICs across the pillars in Horizon 2020 and with other relevant initiatives, while taking due note of the risk of overlaps.

Examples of synergies between KICs and other initiatives in practice (as of 9/2011)

- EIT ICT Labs liaises and works closely with the future Internet Public Private Partnership, the Artemis Joint Technology Initiative and EUREKA initiatives such as ITEA2 (Information Technology for European Advancement), and the Trust in Digital Life partnership. By applying KIC "catalysts" such as the Innovation Radar, the Patent Booster and the Technology Transfer along the lifecycle of Union funded research projects, EIT ICT Labs boosts their market impact. By offering access to its co-location centres it can enhance the mobility of people and ideas across Europe.
- KIC InnoEnergy contributes to the delivery of the Union's Strategic Energy Technology Plan (SET Plan), through inter alia, its participation in the SETIS platform on technology watch and mapping and its input to the European Industrial Initiatives. It also currently interacts with the Commission's Joint Research Centre (JRC) for the simulation capabilities in building scenarios.
- Climate KIC is actively providing synergies with Joint Programming Initiatives (JPIs) in the area, as the innovation agenda and implementation plan of Climate KIC will be partially based on the common strategic agenda identified in the JPI climate (climate services and adaptation). Climate KIC Regional Innovation and Implementation Communities (RICs) provide an original pan-European regional innovation model, which uses regions as test beds, linking the development of managerial capability and regional strengths to global challenges.

2. Deepening the role of the EIT after 2013: priorities

2.1. *Incentivizing growth, impact and sustainability through the EIT*

Lessons from the set up phase

The process of setting up the initial KICs has involved a substantial 'learning by doing'. It has shown that KICs are novel concepts and the challenge of getting legally organised as a KIC and forming contractual relationships with KICs and their partners was underestimated by all parties involved in the process. A lack of awareness of the suitability of different forms of legal entity did not help smoothing the set-up process. While the bottom-up approach, which gives substantial leeway to each KIC to organise its partnerships is to be maintained, further guidance and support should be given to identify suitable legal set-ups. Moreover, the challenge of bringing different academic and business cultures together into one legal entity should not be underestimated; hence the importance of sharing common values at both KIC and EIT level. Furthermore, KICs are large scale institutional innovations, and no two KICs are the same in terms of their characteristics, including their size and organisation. This offers a rich array of innovation models, but also renders the overall coordination and monitoring of KICs more challenging.

In the future, EIT should give clearer guidance upstream from the selection process to ensure that essential strategic features are shared by all KICs, while allowing for differentiated approaches in KICs organisation, delivery and funding approaches.

The EIT should reduce administrative burdens and disseminate best practices and experiences of existing KICs to new KICs. Finally, the current total number of three KICs does not yet provide the critical mass for the EIT to develop its full potential as a leading innovation institute.

Furthermore, the EIT must be more than the 'sum of its parts' and cross-KIC activity must be promoted.

The EIT needs, in the long term, to cultivate a clear identity and a world-wide EIT brand. Nurturing a strong EIT brand may include actions to create a strong human and business network around the EIT community (students, alumni, educators, entrepreneurs, professionals etc.) and the organisation of conferences and events to foster a sense of identity and visibility.

The EIT as an investor in the knowledge triangle

Building on these lessons the EIT aims to consolidate and further develop its role as an 'investor' which nurtures and enables existing centres of excellence in research, business and higher education in Europe to come together and foster their long-term systematic collaborations through the KICs.

The 'EIT investor' approach stands for a focus on identifying best strategic opportunities and selecting a portfolio of world-class partnerships – the KICs – to deliver these. As part of this approach, the EIT awards the annual grants to the KICs on the basis of their past performance and proposed activities in their business plan, following a clear and transparent procedure. The assessment of the business plans will be supported by external, independent experts. In this perspective, the EIT should not only set out broad directions and visions, but needs to provide KICs with an appropriate level of support and monitor their performance. At the same time, KICs are given a substantial degree of leeway to define their agenda, internal strategies and organisation as well as to deliver their activities and mobilise the talent and resources needed.

Returns on EIT investment in KICs will be measured in terms of tangible benefits for the European economy and society at large, such as creation of new business, products and services in existing and future markets, better skilled entrepreneurial people, new and more attractive job opportunities and the attraction and retention of talent from across the Union and abroad.

This requires the setting-up of a robust monitoring and evaluation system for the EIT, focusing on achievements, outputs and generation of both economic and societal impact to be benchmarked against best international practices. Setting up a balanced performance monitoring system to assess the EIT impact via the KIC, the EIT own performance as an organisation and the EIT contribution to Horizon 2020 is a priority in this direction.

An important element in this regard is also the development, together with the KICs, of a true EIT 'corporate identity' around a set of shared values. While all KICs and their individual partners do have their own corporate identities and values, they all share values that bring the EIT/KICs community together. They are: excellence across the knowledge triangle; highly skilled and entrepreneurial people; long-term collaboration across borders, disciplines and sectors; and the focus on societal and economic impact. Such an identity will also enhance the external visibility and reputation of the EIT and KICs.

2.1.1. Consolidating and fostering growth and impact of the existing KICs

The EIT will actively support the initial three KICs to enhance their potential and impact and their contribution to the objectives of Horizon 2020. Over time, the KICs will expand their initial portfolio of activities in order to seize new market or societal opportunities and adapt to a changing global environment. To support these developments, the EIT will advise and define, in an open and transparent way and in close co-operation with each individual KIC, tailor-made co-financing strategies, which at the same time underpin strategic activities from an EIT perspective.

KICs should remain dynamic partnerships and hence be open to new partners across the whole of Europe on the basis of excellence, but also to discontinue existing ones if appropriate. The KICs should tap into new sources of existing and potential excellence whenever they bring added value, through participation of new partners in the existing co-location centres, enhanced cross-co-location work within each KIC or even, the setting-up of a new co-location centre, while keeping their KIC partnership focused, robust and manageable.

A good balance between co-operation and competition is equally important for bringing KICs to maximum performance. The EIT will incentivize KICs to engage in cross-KIC work in areas which offer a strong potential for synergies, e.g. via joint professional development courses, joint research activities, masters or PhDs degrees or cross-KIC mobility between academia and business. At the same time, the EIT will provide incentives for a certain degree of competition to encourage KICs to stay focused on results and impact and take appropriate measures in case of underperformance.

KICs not only build on their partners' existing excellent research base, but are also the frontrunners for promoting and implementing the EIT's educational mission. The objective is to educate and train talented people with the skills, knowledge and mindset, including entrepreneurship, needed in a global knowledge economy and society. To this end, the EIT actively promotes, inter alia, the EIT-labelled degrees by monitoring their quality and consistent implementation across KICs. In this endeavour they will make extensive use of peer and expert evaluations, and establish a dialogue with national and international quality assurance bodies. This will enhance the national and international recognition and reputation of the EIT labelled qualifications and raise their attractiveness globally, thereby enhancing the employability of graduates while providing a platform for collaboration at international level. In the future, KICs will be encouraged to expand their educational activities beyond post-graduate education to a greater variety of study modes to cater for a wider range of innovative, professional development activities, involving executive education, tailor-made training courses, including professional training courses, and summer schools, as well as internships within the KICs and their partners.

To enhance the impact of KICs' educational activities and to reach out to a wider audience, KICs may envisage the design, on an experimental basis, of distance learning and e-learning modules for undergraduate courses or packages targeted at school education.

The EIT will:

- Encourage KICs to develop a greater variety of and provide advice on educational and training activities and to raise awareness of the existence of these activities.
- Gradually set-up competitive review mechanisms for the allocation of a percentage of the KICs grant, which will be based on KICs' business plans and performance and which will take into account the fact that KICs grow at different speeds.
- Incentivise KICs to develop joint activities on horizontal issues.
- Set up a system of peer evaluations for EIT labelled qualifications and engage in dialogue with national and international quality assurance bodies to promote a consistent approach.

2.1.2. Creating new KICs

In order to further enhance impact and to incentivise innovation in new areas of societal challenges, the EIT will gradually expand its portfolio of KICs. By following an incremental development path in establishing new KICs, the EIT will ensure that lessons learned from previous rounds are duly taken into consideration, and that KICs are set up only in areas where there is a clear innovation potential and top-class excellence to build on. In the period 2014-2020, new KICs will therefore be set up in three waves. A call for two KICs will be launched in 2014, a further call for two KICs in 2016 and finally a call for one KIC in 2018, subject to a positive outcome of the review of the EIT provided for in Article 32(2) of Regulation (EU) No 1291/2013 of the European Parliament and of the Council⁽¹⁾, leading up to a portfolio of eight KICs in the period 2014-2020 (equalling the set-up of 35-45 co-location centres across the Union). The selection process for KICs shall strongly build on the positive results of lessons-learned from the process for the first-round KICs and a thorough external evaluation of the EIT and existing KICs, including an assessment of KICs' economic and societal impact and the contribution of the EIT to strengthening the innovation capacity of the Union and Member States as well as, when applicable, on the results from the evaluations of Horizon 2020.

New KICs will be set up in areas which offer a true innovation potential. The EIT thereby fully contributes to the goals of the larger Union policy agenda and in particular to the objectives of Horizon 2020, which identifies a number of large societal challenges, and enabling and industrial technologies. The objective is to set up KICs in thematic areas which, due to their magnitude and complex nature, can only be addressed through a cross-disciplinary, cross-border, and cross-sectoral approach. The selection of the thematic fields therefore needs to be based on a careful analysis as to whether a KIC can bring true added value and have a positive impact on economy and society.

The European Commission has carried out this analysis through a process designed to objectively assess the potential of future KIC themes. One starting point was the draft SIA which the EIT Governing Board submitted to the Commission in June 2011. In parallel, a set of robust criteria was developed to allow for an objective assessment of the innovation potential offered by each future theme. The validity of these criteria was checked with the wider innovation community from across the knowledge triangle through an open public consultation. This process resulted in the following list of criteria:

⁽¹⁾ Regulation (EU) No 1291/2013 of 11 December 2013 of the European Parliament and of the Council establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020), (See page 104 of this Official Journal)

- Address major economic and societal challenges Europe faces, and contribute to the delivery of the Europe 2020 Agenda;
- Align and co-ordinate with relevant Union policies as well as with existing initiatives under Horizon 2020 and Erasmus+.
- Be able to mobilize investment and long-term commitment from the business sector; have an existing market for its products or be able to create new ones;
- Create sustainable and systemic impact, measured in terms of new educated entrepreneurial people, new technologies and new business and highly skilled jobs;
- Bring together a critical mass of world-class research, education and innovation stakeholders across the whole of Europe, which would otherwise not unite, including cooperation with partners from outside Europe;
- Require trans-disciplinary approaches and encourage the higher education institutions to develop new types of education across discipline boundaries;
- Address major innovation gaps such as the European paradox, i.e. themes where Europe has a strong research base but a weak innovation performance.

The assessment of the themes proposed in the EIT draft as well as by the wider stakeholder community clearly showed a certain degree of variation regarding potential impact the establishment of a KIC would offer. As a result, a number of themes were discarded entirely; others were redefined in order to better respond to the specificities of the European and global context in this area.

The following thematic areas have been identified as those where the establishment of a new KIC has greatest potential to add value to existing activities and bring about a real boost to innovation:

- Innovation for Healthy Living and Active Ageing
- Raw Materials - Sustainable Exploration, Extraction, Processing, Recycling and Substitution
- Food4Future - Sustainable Supply Chain from Resources to Consumers
- Added-value Manufacturing
- Urban Mobility

More details on the individual themes are provided in the factsheets at the end of the document ⁽¹⁾.

On the basis of these themes, the EIT will have the autonomy to organise the future KICs selection process. The success of future calls for KICs will depend largely on clear guidance as regards the expectations and requirements, as well as a timeframe allowing KIC applicants to get solidly organised both legally and financially before submitting a proposal. KICs will be selected against detailed criteria defined in the EIT Regulation, based on the overarching principles of excellence and innovation relevance. Any KIC selected will need to demonstrate how it will create maximum impact in the given area and prove the viability of its strategy.

⁽¹⁾ The factsheets provide a synthesis of the analysis carried out on the relevance and added value of creating a KIC in the proposed themes. They give indicative information on what a KIC in the specific area could do, but do not prescribe future KICs' activities and working methods.

Reflecting the need for a gradual approach in establishing new KICs, the selection of themes for the three waves has been based on the maturity of the field, the potential societal and economic impact, as well as the opportunities for synergies with other initiatives. The themes for the 2014 wave are:

- Innovation for Healthy Living and Active Ageing
- Raw Materials – Sustainable Exploration, Extraction, Processing, Recycling and Substitution

The themes for the 2016 wave are:

- Food4Future - Sustainable Supply Chain from Resources to Consumers
- Added-value Manufacturing

The theme for the 2018 wave is:

- Urban Mobility

The EIT will

- Prepare a selection procedure for each wave of KICs which allows sufficient time for KIC applicants to prepare proposals.
- Launch calls for five new KICs as follows: a call for two new KICs in 2014 in the themes of Healthy Living and Active Ageing and Raw Materials; a call for two new KICs in 2016 in the themes of Food4Future and Added-value Manufacturing and a call for one new KIC in 2018 in the theme of Urban Mobility.
- Make best efforts to ensure that as many potential interested parties as possible are made aware of the future KIC selection procedures.
- Ensure that framework conditions of future KIC selection procedures are conducive to an optimal outcome, notably by providing clear guidance concerning requirements and processes, and by allowing sufficient time for proposers to organise the partnership

2.2. *Enhancing EIT's impact*

Fostering innovation across the Union

In the initial period, the EIT has mainly focused its efforts on establishing the KICs. While it is a clear goal for the EIT to strengthen existing centres of excellence, the EIT will also need to ensure that it delivers benefits to areas of the Union which are not directly participating in KICs. It is therefore mission critical for the EIT to actively promote the dissemination of best practices for the integration of the knowledge triangle in order to develop a common innovation and knowledge sharing culture.

In future, the EIT must work to make the KIC experience understandable and replicable and build it into a culture that can act as a role model in Europe and beyond. By identifying, analysing and sharing best practices, as well as new governance and funding models from the KICs, the EIT seeks to ensure that knowledge generated within the EIT and its KICs is disseminated and capitalised upon for the benefit of people and institutions, including those not directly participating in the KICs.

The EIT will also seek to enhance its visibility across the Union. All relevant means and avenues of communication should be used to ensure sufficient access to information on the functioning and the scope of the EIT and the KICs.

The EIT can play the decisive role in synthesising the diversity of approaches applied by the KICs and in making them transferable in areas where innovation capacity is weak, and which would otherwise not be able to benefit from the experience gained by the EIT. Such outreach will ensure that the benefits of the EIT experience promote the development of innovation capacity in these areas. This activity is able to generate strong returns in so far as it builds on the work of the KICs.

The introduction of a Regional Innovation Scheme (RIS) targeted at partnerships of higher education institutions, research organisations, companies and other stakeholder organisations will provide a specific mechanism for the dissemination of best practice and widening participation in KIC activities.

Such a scheme will not only provide participants from beyond the KICs with the opportunity to gain expertise from and facilitate interaction with the KICs, but will also provide them with incentives to make full use of the knowledge and know-how acquired in areas beyond the KICs, thereby enhancing innovation capacity across the Union. Furthermore, RIS participants will have to demonstrate a clear thematic alignment by referring to relevant regional innovation plans in particular Smart Specialisation Strategies to ensure strategic impact.

The scheme will be implemented on a voluntary basis by KICs with support as appropriate from the EIT. Participants will be selected through an open and transparent process managed by the KICs.

Activities undertaken as part of the RIS will be a matter for the KICs. These could include structured mobility actions to ensure that talent – students, researchers, teaching staff and entrepreneurs of any age and gender and at all career levels – beyond the KICs have the opportunity to get involved in the activities of KICs.

While RIS participants will primarily use other sources of funding, including national funding, structural funds and own resources to enable participation in the RIS, the EIT may incentivise the implementation of the RIS by the KICs through the funding of structured mobility actions as part of its programme of dissemination and outreach activities.

Main drivers of learning at EIT level may be: innovation-driven excellent research for the creation of new businesses and new business models, including the possibility for SMEs and public institutions to participate more actively in innovation, management of IP portfolios and new approaches to IP sharing, entrepreneurship and new integrated forms of multi-disciplinary education; innovative governance and financial models based on the concept of open innovation or involving public authorities. This will help the EIT to be a role model and to act as a 'game shifter' in the European innovation landscape and to become an internationally recognised world-class innovation institution.

Fostering and attracting talent

Talented people are at the heart of successful innovation. It is one of the EIT's foremost roles to give talented people the opportunity to use their potential to the full and to create environments where they can thrive. Through the KICs, the EIT is generating such environments, but needs to complement them with strategies for attracting and including top talent from beyond the KICs.

Moreover, the EIT has a clear role to play in attracting talent from outside the Union. By creating a strong brand and forging strategic relations with key partners from around the globe, the EIT can add to the attractiveness of the partners within the KICs. In close cooperation with the KICs, the EIT should develop a strong international strategy, identifying and liaising relevant interlocutors and potential partners. In this context the EIT and its KICs should take full advantage of existing Union initiatives in the area, such as Union research, education, training and youth programmes, including the 'Erasmus+' programme and the Marie Skłodowska-Curie Actions and other mobility initiatives at Union level. In addition, the EIT can foster knowledge sharing, mentoring and networking by encouraging, among other things, the setting up of an EIT alumni network.

The EIT will complement its efforts to promote talented people and brilliant ideas by other measures, such as the organisation of competitions for ideas or awarding innovation prizes, either as an own initiative or in cooperation with leading global partners.

The EIT will

- Encourage participation in outreach activities and in particular provide support, as appropriate, to the KICs in relation to the Regional Innovation Scheme.
- Set up/customise a web based tool to provide a platform for knowledge sharing and networking around the EIT.
- Build and support a functional and strong network of graduates from EIT/KIC educational and training activities ('EIT alumni').

- Make lessons learned and successes from KICs systematically accessible to the wider Union innovation community and beyond. This may include the development of a repository of open course ware from the EIT's and KICs' educational and training activities.
- Ensure strong participation of the private sector, including SMEs, in the knowledge triangle.

2.3. *New delivery mechanisms and results-oriented monitoring*

Simplification, implemented in a responsible and accountable manner, is a must for the EIT to achieve effective results, promote innovation breakthroughs and the involvement of the business community. There is still room for the EIT to exploit its flexibility to the full, in order to push simplification further.

As an 'investor' in KICs, the EIT considers simplification to be a dynamic process, embedded in the EIT operation and an integral part of its supporting function towards the KICs. To this end, the EIT will strive to adapt, improve and streamline its monitoring, reporting and funding processes and constantly seek simplified approaches that can help the KICs to cope with new, emerging needs and foster their impact.

The KICs will provide an ideal testing ground for new approaches to funding and management of innovation. Through the KICs' experimentation and experience, the EIT will deliver a simplification agenda in key areas such as contractual agreements, simplified reporting, lump sums and flat rates in order to reduce the administrative burden for the KICs.

The Commission will closely monitor the EIT's ability to deliver the simplest possible agreements and principles for the funding and management of KICs activities, based on the EIT's own simplification agenda. Insights gained – including failures – will be shared with future KICs and Union programmes and schemes under Horizon 2020.

The Commission has reinforced its efforts in supporting the EIT towards establishing a sound and solid results-oriented monitoring system. This monitoring system will ensure full accountability of the EIT and the KICs, quality of the deliverables, the contribution to Horizon 2020 priorities, and at the same time allow for sufficient flexibility in the KICs' operations and openness to new ideas and partners. It will allow the EIT to develop a solid capacity for gathering and analysing the input from the KICs, including funding sources to measure the performance of the EIT against its own objectives and to benchmark EIT and KICs against best practices at European and global level.

The system will be designed in a flexible manner and if necessary adjusted to take into account the EIT's and KICs' evolving and growing portfolio of activities. Following the recommendation of the independent external evaluation and the overarching monitoring provisions under Horizon 2020, the Commission has proposed, in association with the EIT and the KICs, the establishment of a results-orientated performance monitoring system for the EIT, addressing four activity levels:

Horizon 2020 level: to regularly monitor the EIT and KICs' contribution to achieving the objectives of Horizon 2020.

EIT level: to assess the performance of the EIT as an efficient and effective Union body; this will be measured in terms of support provided to the KICs, the intensity and coverage of its outreach, dissemination and international activities and its ability to deliver simplified procedures.

Cross-KIC level: to monitor the contribution of all KICs to achieving the EIT strategic objectives, as identified in a dedicated instrument such as an EIT Scoreboard.

Individual KIC level: to monitor individual KIC performance based on individual targets and key performance indicators (KPIs) as laid down in the individual KIC business plans. KIC have different business models and markets and thus different industrial KPIs which are central for the successful management of the individual KIC.

The EIT will

- Develop a simplification agenda, including benchmarks to assess progress, and report to the Commission on its implementation progress through the Annual Activity Report; ensure that new models of simplification are disseminated across the Union and inform other Union initiatives.

- Establish, in cooperation with the Commission and the KICs, a comprehensive system to monitor: the EIT's contribution to Horizon 2020; the EIT's impact via its own and KIC activities; and KIC results. The EIT will report on all its monitoring activities in its annual activity report to be sent to the European Parliament and to the Council.

3. **Effective decision making and working arrangements**

The EIT's governance structure combines the bottom-up approach of the KICs with strategic guidance from the EIT level. Decision-making at the EIT level therefore needs to be characterised by a truly strategic outlook, combined with efficient implementing mechanisms and a systematic involvement of knowledge triangle actors across Europe.

The governance model of the EIT has proven its overall value. However, experiences from the initial period show that further efforts can be made to enhance the effectiveness of the EIT's decision-making and implementing mechanisms. The relationship between the EIT Governing Board, responsible for strategic decisions, and the EIT headquarters, responsible for implementation, has to be more clearly defined and streamlined. The EIT headquarters will have to define the critical domains where the EIT should provide support to the KICs, striking an appropriate balance between supporting and monitoring functions. The Governing Board needs to better ensure that strategic decisions are properly informed by the experiences from the KICs and the wider innovation community. Finally, the EIT should continue to be accountable to the Council and Member States.

3.1. *Streamlining and clarifying EIT decision-making*

The EIT Governing Board sets the strategic direction of the EIT and the framework conditions for the KICs, and through its members connects the EIT with the various stakeholder communities in the field. In line with the EIT's business-orientated approach, decision-making needs to be efficient, quick, and focused.

Determining factors in this regard are size, composition and procedures of the Governing Board. The principle of independent members, combined with a limited number of elected members representing the KIC community, has proven its value and allows gathering of expertise from across the knowledge triangle. The initial model with 18 elected members plus, more recently, four additional KIC representatives has, however, shown its limitations. A Board scaled down in size will lead to more efficient decision-making and reduce administrative overheads.

Finally, further efficiency can be gained by re-focusing the EIT Governing Board towards its core role of providing strategic guidance. Moreover, coherence with other Union initiatives will be further strengthened via reinforced consultation with the European Commission on the EIT Triennial Work Programme. The information on EIT and KICs from the EIT Triennial Work Programme will enable to assess and ensure complementarity with the other parts of Horizon 2020 and other Union Policies and instruments. All these changes have been incorporated in the modified Regulation (EC) No 294/2008.

The decisions of the EIT Governing Board are implemented by the EIT headquarters under the leadership of the Director who is accountable for the EIT's actions. In doing so, the headquarters mirror the results-oriented nature of the EIT and its KICs and are the driving force behind the simplification of procedures. At the same time, the EIT headquarters develop the capacity to systematically digest the learning from the KICs and make these findings available for the benefit of the wider innovation community. Over time, the EIT headquarters will become a resourceful repository of best practices and a real knowledge partner for policy makers.

Attraction and retention of talented professionals is a challenge for the EIT headquarters. To equip the EIT office with the best talent and skills, it will define a clear human resource strategy, including options beyond direct employment such as secondments or temporary attachments, promoting regular exchanges of staff and internships with excellent innovation, research and education institutions from the Union and the rest of the world.

The EIT will

- Ensure through a smart human resource strategy, including systematic use of internal and external expertise, and internal management procedures, that the EIT will develop into a reference institution for innovative governance.
- Take concrete measures to further promote a culture of openness and transparency.

3.2. *Investing in KICs: EIT-KIC relations*

Interaction between the EIT and the KICs not only provide the framework for KICs to operate successfully, but are also at the core of the mutual learning process enabling the EIT to play its role as a test bed for new innovation models. In order to provide KICs with appropriate framework conditions, clear and coherent guidance must be given by the EIT at all stages of the process without at the same time being overly prescriptive. This guidance would include in particular management of a KIC and how to involve core and non-core partners. Interactions between EIT headquarters and the KICs need to be systematic and regular as well as clear, transparent and trust-based in order to achieve maximum efficiency. Both the contractual relations between the EIT and the KICs as well as the organisational arrangements of the EIT headquarters should contribute thereto.

Moving away from a merely administrative role, the EIT headquarters will optimise their operational functions to steer the KICs to maximum performance and make good results widely available. There are efficiency gains to be achieved from providing a number of centralised services and functions, rather than at individual KIC level. While all KICs work on specific themes, a number of elements are of a horizontal nature and it is precisely there where the EIT can provide tangible added value. Such knowledge provider functions can relate notably to the EIT headquarters becoming an information broker and resourceful interlocutor, e.g. in fostering cross-KIC exchange and mutual learning, facilitating relations with the Union institutions and other key organisations, such as the Organisation for Economic Co-operation and Development (OECD), or on specific horizontal issues, such as counselling on IP, technology and knowledge transfer, benchmarking against international best practices, or undertaking anticipation and foresight studies to identify future directions for the EIT and the KICs. The EIT and KICs should decide together where these tasks can be most effectively dealt with. In this regard, it will be of crucial importance for the EIT and the KICs to establish viable mechanisms for systematic collaboration around horizontal issues.

The EIT will

- Provide clear and coherent guidance on expectations, obligations and responsibilities throughout the entire life cycle of the KICs.
- Develop in close cooperation with the KICs a capacity within EIT headquarters to facilitate cross-KIC exchange and learning.
- Provide a number of services to KICs on horizontal issues where efficiency gains can be achieved, as well as implement other corporate policies to the same end.
- Provide guidance on affiliation and association of partners which are not able to become fully fledged investors and partners of a KIC.

3.3. *Engaging with stakeholders*

Active exchange and mutual learning with other initiatives should be a cornerstone of the EIT's efforts in testing out new innovation models. The EIT therefore needs to tap into existing best practices and external expertise in order to become the reference body for innovation it aspires to. It is therefore indispensable for the Governing Board to take its decisions informed by the insights and needs of the innovation actors on the ground, and in the context of the wider European framework. By embracing a culture of openness and external engagement, the EIT can actively promote the take-up and acceptance of new innovations by society at large.

To this end, the EIT will directly engage with Member States and other stakeholders from across the innovation chain, generating beneficial effects on both sides. In order to render such dialogue and exchange more systematic, the setting up of an EIT Stakeholder Forum, bringing together the wider community of stakeholders around horizontal issues, could be an appropriate tool to facilitate a two-way, interactive communication.

Stakeholders will include representatives of national and regional authorities, organized interests and individual entities from business, higher education, and research, cluster organisations, as well as other interested parties from across the knowledge triangle.

Member States' representatives shall meet in a special configuration, within the Stakeholder Forum, to guarantee an appropriate communication and flow of information with the EIT, and be informed of the achievements, give advice to, and share experiences with, the EIT and the KICs. The special configuration of Member States' representatives within the Stakeholder Forum shall also ensure appropriate synergies and complementarities between EIT and KIC activities with national programmes and initiatives, including the potential national co-financing of KIC activities. The organisation of the Stakeholder Forum has been incorporated in the modified Regulation (EC) No 294/2008.

Moreover, active consultation with other Union institutions, in particular with relevant services of the Commission, from early on in the process will help to maximise synergies and mutual learning with other Union initiatives.

The EIT will

- Set up a regular EIT Stakeholder Forum, and its special configuration of Member States' representatives, to facilitate interaction and mutual learning with the wider innovation community from across the knowledge triangle, and including national and regional authorities. In this context, the web-based platform can further help foster interaction between participants.
- Make systematic use of existing associations of universities, business and research organisations and cluster organisations as platforms for the exchange of knowledge and dissemination of results.
- Establish a mechanism, such as an annual meeting between the EIT, the KICs and relevant services of the European Commission, to further facilitate synergies between the EIT and the KICs on the one hand, and other Union initiatives on the other.

4. Estimate of financial needs and sources of funding 2014-2020

4.1. Consolidating a smart funding model towards KICs

The EIT designed an original funding model which builds on joint strengths and resources of existing excellent organisations; EIT funding acts as a catalyst to leverage and pool together supplementary financial resources from a wide range of public and private partners. On this basis, the EIT provides on average up to 25 % of the total KIC funding, while the remaining minimum 75 % of a KIC's overall budget should come from non-EIT sources. This includes KIC partners' own revenues and resources, but also public funding at national, regional and Union level, in particular the – current and future – Structural Funds and the Framework Programme for Research and Innovation. In the latter case the KICs (or some of their partners) apply for funding in accordance with the respective rules of the programmes and on an equal footing with other applicants. The contribution from KIC partners is not a classic grant "co-financing" requirement, but a pre-requisite for a minimum level of involvement of existing organisations and their financial commitment to the KIC. This bottom-up approach guarantees strong commitment from KIC partners, incentivizes investment and stimulates structural and organizational change among KIC partners and beyond.

The experience of the initial KICs shows that industry is financially committed to the delivery of the KIC business plans and that the share of the KIC budget from industrial partners amounts to between 20 % to 30 % of the total KIC annual budget.

The EIT funding is foreseen only for "KIC added value activities", namely activities that allow the integration of the knowledge triangle (higher education, research and innovation) policies and partners within and across the KIC, in accordance with the objectives and priorities laid down in the KIC business plans. It includes in particular basic and applied research, innovation, education, entrepreneurship and business creation projects of the KICs, which top up investment in well-established activities (eg. existing research projects). The administration, management and coordination activities of the KIC should also be covered by the EIT contribution.

KICs go through various development phases with different characteristics of their total budgets before reaching cruising speed. The absorption capacity of a KIC is relatively limited at the very beginning, but develops substantially over the following years.

After an initial set-up phase of two years, KIC budgets should grow substantially and KICs can mobilise a significant level of new resources from existing and new partners in a relatively short time. To reach a sufficient critical mass and to achieve impact at European level, KIC annual budgets will be between EUR 250-450 million at cruising speed, depending on the strategy, partnership and market potential of each individual KICs.

While KICs will not be fully financially independent from the EIT during the first years of operation, they will be encouraged to become sustainable in the medium-term; i.e. gradually reduce their dependency from EIT funding for their further consolidation and further expansion. EIT funding will continue to be provided for certain KIC added value activities where EIT investment brings substantial returns, such as education, business creation, co-location, outreach and dissemination.

Currently, the EIT funding to the KICs is carried out solely via grants. In the next Multiannual Financial Framework (MFF 2014-2020) new financial mechanisms may be established via debt or equity instruments. As an 'investor' in KICs, the EIT will follow these developments closely, and will encourage KICs access to make full use of them, facilitating and coordinating access if appropriate.

4.2. EIT budget needs

The EIT's budget needs in the period 2014-2020 are EUR 2 711,4 million and are based on three main components: the necessary expenditure for consolidation of the existing three KICs, gradual development towards new KICs in 2014, 2016 and 2018 respectively, and dissemination and outreach activities and administrative expenditure.

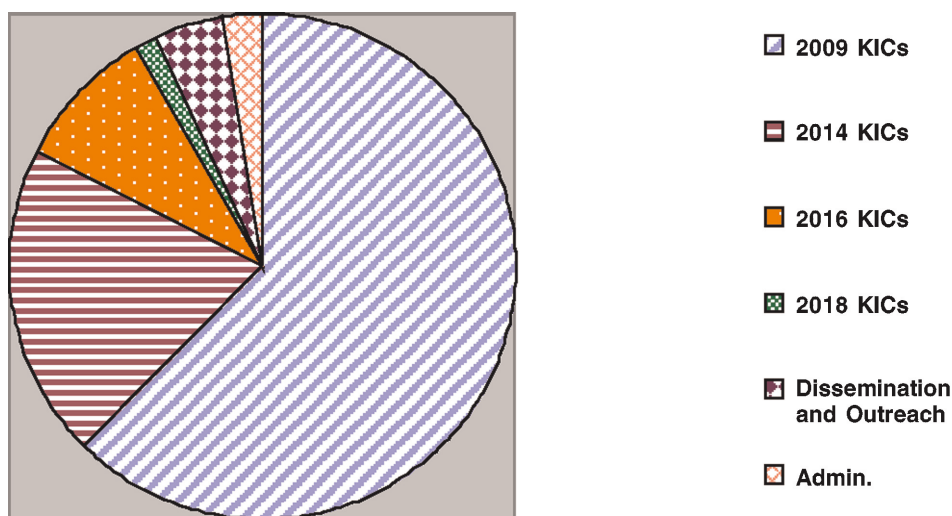
Around EUR 1 695 million (62,5 % of the total EIT budget) is envisaged to fund the KICs designated in 2009 and already operating at the cruising speed; EUR 542 million (20 %) is envisaged for the second wave of KICs, EUR 249 million (9,2 %) for the third wave and EUR 35 million (1,3 %) for the final wave.

Therefore, the projected EIT budget for the KICs in the period 2014-2020 equals to EUR 2,5 billion (93 % of the EIT total budget for the period 2014/2020). Through the EIT's strong leverage effect, the KICs are expected to mobilise a further EUR 7,5 billion of other public and private sources.

The EIT will also engage in a number of dissemination and outreach activities, including providing support for structured mobility within the RIS, which will significantly enhance the impact of its operations across Europe. Moreover, a number of horizontal supporting and monitoring services will provide added value and efficiency gains for KIC activities. In implementing and developing these activities, the EIT will need to follow a strategy aimed at a high efficiency ratio, i.e. a maximum of impact to be achieved through light-touch mechanisms. Around EUR 125 million (4,6 %) of the EIT budget is needed to implement these activities.

If the EIT is to pioneer new models of open innovation and simplification, this should be reflected in its approach to administration. The EIT headquarters needs to be a lean organisation, which follows a strategic approach towards tapping into expertise whenever needed, but without creating unnecessarily heavy and permanent structures. The costs of administrative expenditure, covering necessary staff, administrative, infrastructure and operational expenses, will over time not exceed 2,4 % of the EIT budget. Part of the administrative expenditure is covered by the host country Hungary through provision of free of charge office space until the end of 2030, as well as an annual contribution of EUR 1,5 million to the staff cost until the end of 2015. On this basis, administrative expenditure will therefore be approximately EUR 65 million for 2014-2020.

Graph 3: Breakdown of the budget needs



The EIT during the next MFF will primarily be funded through a contribution from Horizon 2020, of which an amount of EUR 2 711,4 million is envisaged.

Factsheet 1: Innovation for Healthy Living and Active Ageing

1. THE CHALLENGE

Health, demographic change and well-being have been identified as major societal challenges which will be addressed within the framework of Horizon 2020. The overarching aims of any action to address this challenge should be to improve the quality of life of European citizens of all ages and to maintain economic sustainability of the health and social care systems in the face of increasing costs, shrinking human resources and citizens' expectations for the best care possible.

The challenges relating to the health and social care sectors are numerous and closely interlinked. They range from chronic diseases (cardiovascular, cancer, diabetes) together with overweight and obesity, infectious (HIV/AIDS, tuberculosis) and neurodegenerative diseases (exacerbated by an increasingly ageing population), to social isolation, reduced wellbeing, increased dependency of patients on formal and informal care, and multiple exposure to environmental factors with unknown long-term health consequences. In addition, barriers to the application, exploitation and deployment of new findings, products and services prevent effective responses to those challenges.

The response to these challenges has been defined in Horizon 2020 as aiming "to provide better health, quality of life and general wellbeing for all by supporting research and innovation activities. These activities will focus on the maintenance and promotion of health throughout our lifetimes, and on disease prevention; on improving our ability to cure, treat and manage disease and disability; supporting active ageing; and on contributing to the achievement of a sustainable and efficient care sector, including local and regional services and the adaptation of cities and their facilities for an ageing population."

2. RELEVANCE AND IMPACT

A KIC on innovation for Healthy Living and Active Ageing will help meeting Horizon 2020 priorities, namely those defined in the context of the societal challenge "Health, Demographic Change and Wellbeing".

This thematic field is highly relevant from a societal and public policy point of view. Questions of healthy living and active ageing have a bearing on nearly all sectors of our lives and society, and very often call for regulatory action. The health and social care sector is also highly relevant from a socio-economic perspective, since it is one of the sectors on which most money is spent (public and private) ⁽¹⁾; and the sector does not only offer opportunities for economic and technological innovation, it also has a great potential for social innovation. Ageing population is a challenge for public services and requires for example the development and improvement of local services and urban adaptation.

The socio-economic relevance can be further underlined by the fact that Europe benefits from the presence of a solid pharmaceutical sector and well-developed health and social care systems providing jobs to millions of people across the Union. The sector is also one of the biggest high-tech manufacturing sectors in the Union. The potential for growth in these areas is very high since an ageing society means an increase of aggregated demand for care and independent living products and services.

Other sectors also come into play, such as tourism. The ageing population is formed to a large extent by a generation which is used to travel and is still willing to travel, has high quality demands, and hence has a growing need of accessible services (transport, hotels, entertainment etc). More accessible tourism services can boost the competitiveness of the whole sector and would promote further inclusion of the ageing population.

Not least, the Union benefits from a world-class level of research and education in this area. In many Member States excellent research infrastructures and institutions do exist which provide an attractive basis for industry involvement in the planned activities of the EIT.

The challenges related to healthy living are valid across Europe. The responses, which can be provided by a KIC, require intensive co-operation between excellent, multidisciplinary and multi-sector teams with participants from all sectors of the knowledge triangle (higher education, research and innovation). A KIC on this theme would have the added value of linking the activities of innovation and higher education with the already existing excellent research base. In doing so, it will put particular emphasis on higher education curricula, new skills development (needed

⁽¹⁾ Spending on health differs from country to country. Share in GDP ranges from 1,1 to 9,7 % and from 4 % to over 18 % of total public spending. Health related sectors have a high R&D intensity: pharmaceuticals and biotechnology outnumber by far any other sector (15,9 %); health care equipment and services are also very high (6,8 %).

e.g. for technology development but also for elderly care), strengthening entrepreneurial aspects in order to foster the development of a highly entrepreneurial workforce in the area, to support the development of new products and services, and to strengthen existing value chains or even create new ones.

Examples of potential products and services that could be created through a KIC go beyond technology applications (such as applications that treat, code, standardise and interpret data in areas such as cancer, cardiovascular diseases; or tools for risk assessment and early detection), and could trigger social innovation with new concepts improving for example lifestyle management and nutrition, fostering active and independent living in an age-friendly environment, or maintaining economically sustainable care systems.

Focusing on the systemic aspects of European health and social care systems and support to active ageing, a KIC on this thematic field would also include a stronger co-operation between large and smaller, more specialised, firms for greater knowledge circulation. In addition, a specific added value a KIC could provide in this area could be the creation of innovative partnerships at the local level which is of particular importance in the services sector.

Through its integrative approach to the knowledge triangle, a KIC on healthy living and active ageing would be therefore a key contributor to addressing the 'European paradox': adding value to the Union's excellent position in scientific research, and transforming this asset into innovative products and services, and new business opportunities and markets.

The major risks associated to the success of a KIC under this theme are mainly related to the necessary accompanying innovation and policy regulatory framework conditions, which could require some adaptations KICs are not directly aiming at addressing⁽¹⁾. Therefore KICs need to liaise with ongoing Union and national innovation and policy activities on these matters (see next Section).

3. SYNERGIES AND COMPLEMENTARITIES WITH EXISTING INITIATIVES

Health and active ageing related issues are strongly supported by many Union initiatives. Such initiatives encompass a broad range of policy domains in addition to the health sector, such as economy, security and the environment. They therefore indirectly contribute to such targets of Europe 2020 as R&D/Innovation, employment and social inclusion.

A KIC on innovation for healthy living and active ageing will closely co-operate with the pilot European Innovation Partnership (EIP) on Active and Healthy Ageing. It will take into account the concrete actions presented in the EIP Strategic Innovation Plan and contribute to delivering its objectives. It will create complementarity in education and training key actors, but also in providing a unique structured network of practitioners well placed to identify framework conditions and best practise on policy, regulatory or standardisation issues having an impact in the sector. In the context of the EIP, a KIC in this area can also contribute to the Lead Market Initiative – eHealth which aims at stimulating the market for innovative eHealth solutions through its focus on policy instruments (standardisation, certification systems and public procurement).

Coordination will be also fostered with the Joint Programming Initiative (JPI) to boost research on Alzheimer's and other neurodegenerative diseases, and the JPI 'More Years, Better Lives' - the potential and challenges of demographic change and the JPI "A Healthy Diet for a Healthy Life". A KIC in this area will speed up and foster the exploitation of excellent public research pooled together by these JPIs, and thereby address fragmentation in the innovation landscape.

A KIC will also strongly build on and capitalise upon the major research results of the Joint Technology Initiative on Innovative Medicines and of the numerous framework programme research projects addressing this thematic field (such as the health research programme or the ICT research activities on health and ageing) to boost technology transfer and commercialisation via entrepreneurial top talent. Likewise, it will coordinate with the work of the Ambient Assisted Living Joint Programme and the Competitiveness and Innovation Programme.

⁽¹⁾ For example in terms of patient's access to high quality medicines, which is delayed because of legislation for approving new drug products on the market with more time dedicated to tests and certification and for setting prices and reimbursement modalities.

In conclusion, a KIC in this area would be complementary to these activities since it would focus on transdisciplinary activities within the knowledge triangle with a strong focus on innovative products and services and entrepreneurial education.

4. CONCLUSION

A KIC which focuses on the broader issue of innovation for healthy living and active ageing meets the criteria put forward for the selection of KIC themes:

- It addresses a major economic and societal relevant challenge (lifelong health and wellbeing of all, while maintaining economically sustainable care systems), and contributes to the delivery of the Europe 2020 agenda and its objectives on employment, innovation, education and social inclusion.
- This KIC focus is aligned with priorities defined in Horizon 2020 and complementary with other Union activities in the health and social care areas, in particular with the corresponding JPIs and the EIP on Active and Healthy Ageing.
- It can build on a strong research base and on a solid industrial sector which will be attracted by a KIC. It is able to mobilise investment and long-term commitment from the business sector and offers possibilities for various emerging products and services.
- It will address the European paradox, since it will capitalise the Union's strong research base and find new innovative approaches to improve the quality of life of European citizens and to maintain economic sustainability of the health and social care systems.
- It creates sustainable and systemic impact, measured in terms of new educated entrepreneurial people, new technologies and new business. It will foster new technological developments and social innovation.
- It aims at overcoming the high level of fragmentation of the whole health and social care sector; and will bring together a critical mass of excellent research, innovation, education and training stakeholders along the sector.
- It takes a systemic approach and thus requires transdisciplinary work involving different areas of knowledge, such as medicine, biology, psychology, economy, sociology, demography and ICT.

Factsheet 2: Raw Materials ⁽¹⁾ – Sustainable Exploration, Extraction, Processing, Recycling and Substitution

1. THE CHALLENGE

Modern society is totally dependent upon access to raw materials. Access to raw materials is essential for the effective functioning of the Union economy. However, the triptych of decreasing finite natural resources, an ever increasing human population, and rapidly increasing levels of consumption in the developing world are putting increasing demands on the planets' raw materials and natural resources. These factors are some of those responsible for the predicted increase in natural resource consumption during the next decades.

As highlighted by the Resource-Efficiency Roadmap and Horizon 2020, we should aim to ensure accessibility, availability and sustainable use of raw materials that is needed for the European economy and for the satisfaction of our well being, whilst achieving a resource efficient economy that meets the needs of a growing population within the ecological limits of a finite planet.

2. RELEVANCE AND IMPACT

This thematic field is highly relevant in terms of economic and societal impact. Raw materials are crucial for the world economy and quality of life; increasing resource efficiency will be key to securing growth and jobs for Europe. It will bring major economic opportunities, improve productivity, drive down costs and boost competitiveness.

⁽¹⁾ In this factsheet, the narrower definition of "non energy, non agricultural raw materials" will be used in order to reduce potential overlap with existing Climate Change and Energy KICs, as well as with other future KIC priority areas such as food.

Whilst the Union does have an excellent research pedigree and various centres of excellence exist, much more could be done to capitalise on this within this priority area. A KIC would be particularly suited to this.

Aligning with other Union activities, a KIC in this area should concentrate on fostering a knowledge hub and centre of expertise on academic, technical and practical education and research in sustainable surface, subsurface, deep-sea, urban and landfill mining, material management, recycling technologies, end of life management, material substitution and open trade, as well as global governance in raw materials. This would act as a broker and clearing house for European centres of excellence on these related topics and manage a research programme of strategic importance to Union industry. For this reason and in order to maximise the impact of the actions and avoid any duplication with Union activities, including the EIP on Raw Materials, the KIC will provide the necessary complement in the areas of human capital (i.e. training, education) for the technology innovative pilot actions (e.g. demonstration plants) for sustainable land and marine exploration, extraction and processing, resource efficient use, collection, recycling, re-use and substitution.

At the same time it could include targets around becoming a technology pioneer by creating pilot schemes and demonstrators of innovative processes and solutions, involving for example the use of economically attractive and sustainable alternative materials, including bio-based materials of strategic importance to the Union. It can consequently trigger the expansion of existing markets and creation of new ones, namely in the areas of sustainable exploration, extraction and processing, resource efficient materials management, recycling technologies, and materials substitution. It will be necessary to assess impacts and develop innovative, cost-effective adaptation and risk prevention measures for particularly sensitive habitats, such as the Arctic.

A KIC in this area will be very important to overcome the barrier which lack of technology constitutes. Technical innovation is required to develop a host of complementary technologies that could change the shape of traditional mineral and raw material value chains. This is an area that requires further work to develop new processes and in order to optimise and commercialise existing knowledge in this area. The entrepreneurial approach of a KIC would be particularly suited to addressing this issue.

Another added value element of a KIC on raw materials is its contribution to addressing the sector's limited networking opportunities. In fact, the disparate nature of the various involved research areas means that there are limited opportunities to meet researchers within different subject areas and benefit from the cross pollination of ideas and collaboration that will be required to foster cost effective low carbon, environmentally sound solutions. Networking within a KIC, bringing together stakeholders from the three strands of the knowledge triangle across the whole value chain would contribute to overcome this weakness. It will give the possibility for enhancing both technology, knowledge and know-how transfer, as well as to provide researchers, students and entrepreneurs the knowledge and skills necessary to deliver innovative solutions and to turn them into new business opportunities.

3. SYNERGIES AND COMPLEMENTARITIES WITH EXISTING INITIATIVES

The Union has identified this priority field as one of the grand challenges. A KIC would contribute to Horizon 2020, namely to the societal challenge related to the sustainable supply of raw materials and resource efficiency. It would contribute to the proposed EIP on Raw Materials. The EIP on Raw Materials will provide overarching frameworks to facilitate alignment and synergies among existing supply and demand-driven research and innovation instruments and policies in the field. This will cover technology-focused activities, but also the identification of framework conditions and best practise on policy, regulatory or standardisation issues having an impact on innovation in a given sector or challenge. A KIC in this area would create complementarity in educating key actors, but also in providing a unique structured network of practitioners. It would provide a solid basis for supporting other innovation-related actions which will be carried out in the framework of the EIP, and for the success of which human resources are an absolute necessity.

It will also be well placed to support the EIP in the identification of framework conditions and best practise on policy, regulatory or standardisation issues having an impact on the sector. A KIC would also strongly build on and capitalise the results of the numerous research projects of the 7th Framework Programme addressing the topic, in particular those funded in the framework of the nanosciences, nanotechnologies, materials & new production technologies, and environment themes.

Similarly, it would build on eco-innovation market replication projects, under the CIP (Competitiveness and Innovation Programme), where material recycling has been one of the priority areas. Such experience will continue with Horizon 2020, namely in the context of the climate action, environment, resource efficiency, and raw materials societal challenges.

In addition, synergies with the European Rare Earth Competency Network, set-up for the critical raw materials called rare earths, shall be sought.

A KIC in this area would seek complementarities and synergies with those activities and should focus on trans-disciplinary activities within the knowledge triangle with a strong focus on innovative products and services and entrepreneurial education.

4. CONCLUSION

A KIC in this area is most suited to address the challenges outlined above. It also meets the criteria put forward for the selection of KIC themes in the SIA:

- It addresses a major economic and societal relevant challenge Europe is facing (the need to develop innovative solutions for the cost-effective, low carbon and environmentally friendly exploration, extraction, processing, use, re-use, recycling and end of life management of raw materials), and contribute to the delivery of the Europe 2020 agenda and its objectives on climate and energy, employment, innovation and education.
- This KIC focus is aligned with priorities defined in Horizon 2020 and complementary with other Union activities in the raw materials area, in particular with the EIP on Raw Materials.
- It is able to mobilise investment from the businesses sector and offers possibilities for various emerging products and services – namely, in the areas of sustainable extraction and processing, materials management, recycling technologies, and materials substitution.
- It creates sustainable and systemic impact, measured in terms of new educated entrepreneurial people, new technologies and new business. It offers, in particular, opportunities for social value creation by making efforts towards addressing the goal of sustainability of the whole product lifecycle: using raw material more efficiently and improving effectively the recycling and recovering of raw materials.
- It includes a strong education component which is lacking in other initiatives, and will bring together a critical mass of excellent research and innovation stakeholders.
- It requires transdisciplinary work involving different areas of knowledge, such as geology, economics, environmental sciences, chemistry, mechanics and multiple industrial areas (construction, automotive, aerospace, machinery and equipment, and renewable energies).
- It will address the European paradox, since Europe counts with a strong research base and a weak innovation performance on this area. It offers opportunities for innovation in sustainable mining and materials management. Substitution and recycling can promote further sector change and enhance investment activities through the creation of new products, services and supply chain approaches.

Factsheet 3: Food4Future – Sustainable Supply Chain from Resources to Consumers

1. THE CHALLENGE

The global food supply chain is facing a complex set of challenges.

On the demand side, the situation is characterised by an increasing world population, by an increasing standard of living (especially in the emerging countries) creating demand for a more varied, high-quality diet requiring additional food production. As a result the UN has predicted that food demand will rise by around 70 % by 2050 ⁽¹⁾. At the same time, the fast expansion of the bioenergy sector further accentuates the demand for by-products derived from the food production process.

On the supply side, global climate change will aggravate pressures on food production and food supply. In addition, a number of food production systems in the world are unsustainable. Without change, the global food system will continue to degrade the environment and compromise the world's capacity to produce food in the future.

⁽¹⁾ Food and Agriculture Organisation of the United Nations (FAO). 2009. Global agriculture towards 2050.

These problems in particular have to be seen in connection with consumers' attitudes, concerns and behaviours, as production is driven by consumers and markets. During the last two decades the complexity of food consumption has increased dramatically. Consumers demand affordable, diversified, high quality and convenient food products responding to their tastes and needs. Concerns regarding various issues, ranging from food safety and environmental protection to ethical considerations, such as fair trading practices or animal welfare, are continuously increasing and result in growing demands by consumer groups for political action. Finally, food consumption habits (including food wastage) can have strong impacts on consumer health and well-being, as well as on primary production and on the environment.

Horizon 2020 addresses this complexity and defines the challenges relating to this sector: "The challenge is to secure supplies of safe and high quality food and bio-based products and to ensure sustainable management of biological resources, contributing to both rural and coastal development and to competitiveness of the European biobased industries, while preserving terrestrial and marine eco-systems, reducing fossil-dependency, mitigating and adapting to climate change and promoting zero-waste and resource efficiency."

2. RELEVANCE AND IMPACT

A KIC on a sustainable supply chain will help meeting Horizon 2020 priorities, namely those defined in the context of the societal challenge "Food security, sustainable agriculture and forestry, marine and maritime and inland water research and the bio-economy".

This thematic field is in addition highly relevant in terms of economic and societal impact. Questions of food safety and security have a bearing on nearly all sectors of our economy and society, and very often call for regulatory action.

The food industry is the largest manufacturing sector in Europe and plays an essential role in Europe's wider economic development. Despite its relevant role, the competitiveness of the European food and drink industry is being challenged. Over the last decade, Europe's share of the global market has declined from 25 % to 21 % in the face of competition from emerging economies, such as China, India and Brazil. Increasingly unable to compete on cost alone, the European food industry needs to be able to add value by creating healthier, more sustainable and resource-efficient products if it is to reverse this decline.

Action is needed to ensure a climate resilient and sustainable global food system while meeting the increasing food demand within the constraints of available land and declining fish stocks, protecting the natural environment and safeguarding human health.

A KIC in this area will focus on the food supply chain. This focus lends itself particularly well to the holistic approach of a KIC. It comprises resource input in the very beginning of the chain (fertilisers, etc.), food production, processing, packaging and distribution; and it ends with the consumers which might be a specific priority of a KIC (reduction of food waste, healthy nutrition, etc.). The objective is to ensure a more efficient and effective food supply chain system, while improving the sustainability and traceability in all parts of this chain.

Addressing the food supply chain via a KIC will thus give the possibility to address not only some of the major economic and societal relevant challenges Europe is facing, but also to mobilise investment and long-term commitment from the business sector – namely, in the deployment of new and innovative technologies, processes and knowledge to increase sustainable food production, processing, packaging and distribution, to reduce waste and promote better nutrition. Through its integrative approach, a KIC in this area will be able to influence the industry approach to focus more on consumer-driven innovation, thereby benefiting consumer health and quality of life. This will go along with the potential of new business models and market strategies that focus on consumers' needs and trends and build upon enhanced awareness of the food chain, which can have potential to get innovations and technological possibilities in line with consumer interests and thus create new business opportunities.

A KIC in this area will be very important to overcome the high level of fragmentation of the whole food supply chain. It will blend a critical mass of excellent research, innovation, education and training stakeholders along the whole chain. All elements of the chain (primary sector, food production, food processors, retailers, food service channels and – not least – the consumer) are inextricably linked to each other for the conception of future innovations. A KIC will provide the necessary systemic and transdisciplinary approach to tackle these issues.

The major added value of a KIC in this area will be its role in addressing the current shortage of skills and human resources. Currently, probably as many as half of the European food and beverage manufacturing industries are facing a shortage in scientific and skilled personnel. This is a barrier to innovation in this sector. By integrating education with the other sectors of the knowledge triangle, a KIC will address this issue. It will at the same time offer the opportunity to stimulate new educated entrepreneurial people, capable of developing new innovative technologies and business. This focus on entrepreneurship would be particularly relevant in the food sector, which is characterised by a high number of SMEs.

The major risks associated to the success of a KIC under this theme are mainly related to the necessary accompanying innovation framework conditions, which KICs are not directly addressing. For increasing sustainability throughout the food supply chain, some changes in regulation may be needed in order, for example, to internalise food production costs. Therefore, the KICs need to liaise with ongoing Union and national innovation and policy activities on these matters (see next section).

3. SYNERGIES AND COMPLEMENTARITIES WITH EXISTING INITIATIVES

The Union is fully engaged in this field. A KIC would contribute to address Horizon 2020 societal challenge "Food security, sustainable agriculture and forestry, marine and maritime and inland water research and the bio-economy". It would, in particular, co-operate with the proposed European Innovation Partnership (EIP) "Agricultural Productivity and Sustainability". Whilst the latter will put emphasis on building bridges between cutting-edge research and practical innovation, a KIC would in particular create complementarity in educating key actors, such as entrepreneurs and consumers. Coordination is also needed, with the Joint Programming Initiative "Agriculture, Food Security and Climate Change", which will pool national research efforts to integrate adaptation, mitigation and food security in the agriculture, forestry and land use sectors.

The European Maritime and Fisheries Fund will promote environmental and social sustainability of fisheries and aquaculture, thus highlighting the need for technical developments coupled with new entrepreneurial skills in these fields, in line with the evolution of consumers' behaviour, providing possibilities for synergies. Likewise, coordination will also be possible with the recently launched JPI "Healthy Food for a Healthy Life" and "Connecting Climate Research in Europe", and with European Technology Platforms in relating areas (in particular, the Food for Life Platform) or numerous projects under the Seventh Framework Programme. Similarly, it would build on eco-innovation market replication projects, under the CIP (Competitiveness and Innovation Programme), where food and drink has been one of the priority areas. Such experience will continue with Horizon 2020 namely in the context of the Climate action, environment, resource efficiency and raw materials societal challenge.

A KIC in this area would be complementary to these activities since it would focus on transdisciplinary activities within the knowledge triangle with a strong focus on innovative products and services and entrepreneurial education as well as on consumer issues.

4. CONCLUSION

A KIC which focuses on the food supply chain is most suited to address the challenges outlined above. It also meets the criteria put forward for the selection of KIC themes:

- It addresses a major economic and societal relevant challenge (the need to ensure a resilient and sustainable food system while meeting the increasing food demand within the constraints of available land, protecting the natural environment and safeguarding human health), and contributes to the delivery of the Europe 2020 agenda and its objectives on climate and energy, employment, innovation and education.
- This KIC focus is aligned with priorities defined in Horizon 2020 and complementary with other Union activities in the food sector, in particular with the EIP "Agricultural Productivity and Sustainability".
- It is able to mobilise investment and long-term commitment from the businesses sector and offers possibilities for various emerging products and services – namely, in the deployment of new and innovative technologies, processes and knowledge to increase sustainable food production, processing, packaging and distribution, to reduce waste and promote better nutrition and a healthier population.
- It creates sustainable and systemic impact, measured in terms of new educated entrepreneurial people, new technologies and new business. It will foster new technological developments and more efficient and sustainable production systems.

- It aims at overcoming the high level of fragmentation of the whole food supply chain; favouring traceability; and will bring together a critical mass of excellent research, innovation, education and training stakeholders along the whole chain.
- It thus requires transdisciplinary work involving different areas of knowledge, such as agronomy, ecology, biology, chemistry, nutrition, and socio-economy.
- It will address the European paradox, since it will find new innovative approaches to ensure a more sustainable and efficient supply chain and to improve food security.

Factsheet 4: Added-value Manufacturing

1. THE CHALLENGE

One of the major challenges defined in the European Innovation Agenda and which also has to be addressed within the framework of Horizon 2020, is the competitiveness of Union Member States on the global market. One of the sectors where the problem is particularly urgent is manufacturing.

Manufacturing in European countries is under considerable strain: increased competition from other developed economies, low cost production in developing countries, and scarcity of raw materials are putting pressure on the European manufacturing companies. Parallel to this, there are further factors driving change in the manufacturing sector: new market and societal needs, rapid advances in science and technology, environmental and sustainability requirements.

One possible answer to address these challenges is the development of a "high value (or added-value) manufacturing" industry. This concept defines an integrated system including the whole cycle of production, distribution and end-of-life treatment of goods and products/services applying a customer/user driven innovation system. Rather than competing primarily on cost, added value manufacturers deliver value by delivering product/service innovation, establishing process excellence, achieving high brand recognition and/or contributing to a sustainable society.

The manufacturing sector is of considerable economic, social and environmental significance. In 2010 the manufacturing sector accounted for 15,4 % of the Union's GDP and over 33 million jobs. This figure increases to 37 % if power generation, construction, and associated business services are included. At the same time, manufacturing also contributed to about 25 % of the waste, 23 % of greenhouse gases and 26 % of NOx generated in Europe.

Bearing this in mind, it is quite clear that the overall objectives in the field of manufacturing must be increased competitiveness of Europe within the global market as well as the development of more sustainable and environment-friendly manufacturing processes.

2. RELEVANCE AND IMPACT

A KIC on added-value manufacturing will help meeting Horizon 2020 priorities in terms of advanced manufacturing and processing, and its specific objective of "transforming today's industrial forms of production towards more knowledge intensive, sustainable, low-emission, trans-sectoral manufacturing and processing technologies, to realise innovative products, processes and services".

It will be able to mobilise investment and long-term commitment from the business sector, and to expand and create new markets. It could have in particular a function in supporting the actions defined in the Strategic Research Agenda of the European Technology Platform (ETP) "Manufuture":

- Eco-design
- Development of added-value products and services;
- Development of new business models;
- Development of advanced manufacturing engineering processes;
- New emerging manufacturing sciences and technologies;
- Transformation of existing research and education infrastructures to support world-class manufacturing.

Whilst supporting the development of new products, services, business models and manufacturing processes, emphasis should be put on sustainability and eco-innovation, with the reduction of resource and energy inefficiencies, maximising positive environmental impacts, but also contributing to strengthening positive economic and social impacts. Concretely, such clean approach will imply energy and material efficient processes and machinery, the use of renewable power sources, and/or the employment of smart energy management, leading thus to significant reductions of waste and emissions. By contributing to the development and deployment of more sustainable, resource-efficient and competitive manufacturing, a KIC would be able to trigger industry and consumers behavioural change and to create systemic impact.

A KIC on added-value manufacturing could also have a very important role and impact at regional level: Fostering the creation of interconnected regional clusters with local transfers and collaboration, developing competences in high-end manufacturing technologies, and developing excellence in manufacturing technologies would be the key missions of a KIC at regional level. In this connection, specific attention could be given to those regions more affected by declining manufacturing capacity as well as to SMEs.

One of the major challenges for reaching the above aims is the availability of a highly qualified workforce which is sufficient in quality as well as in numbers. A KIC would therefore have a very important role to play in re-shaping the education landscape in this field. By creating closer links between skills demanders and education providers, a KIC would promote joint post-graduate degrees, post-graduate professional training and industrial "real-life" courses.

Capacity-building will be also a central element of a KIC in added-value manufacturing. This concerns not only the supply of high qualified work force, but also the possibility of establishing the KIC as a forum for interaction and promotion of cross-disciplinary skills and competences, particularly for the combination of multiple key enabling technologies as proposed by the High-Level Group on Key Enabling Technologies (KETs) ⁽¹⁾.

A KIC on this area will have the potential to bring together different actors and stakeholders in this very trans-disciplinary sector, including key upstream and downstream parts of the value chain. This includes processing industries (e.g. steel or chemicals) which are immediately linked with the value chain for added-value manufacturing.

3. SYNERGIES AND COMPLEMENTARITIES WITH EXISTING INITIATIVES

A KIC as described above would be complementary to a number of other Union initiatives, as well as at the level of Member States and industry associations.

In addition to the already mentioned ETP "Manufuture", it could also establish links with the ETPs on Smart Systems Integration and the Joint Technology Initiative (JTI) on Embedded Computing Systems. The Public Private Partnership (PPP) on Factories of the Future and others potentially to be launched under Horizon 2020 within this thematic area as well as a number of Framework Programmes (FP) projects would also be natural co-operation partners. The KIC would take into account the research priorities and action plans defined in the framework of the ETPs and the research work carried out so far by the JTI, PPP and FP projects in this area.

Similarly, it would build on eco-innovation market replication projects, under the Competitiveness and Innovation Programme (CIP), where experience in the area of more sustainable manufacturing has been developed. Such experience will continue with Horizon 2020 namely in the context of the Climate action, environment, resource efficiency and raw materials societal challenges. Synergies may also be considered with the Environmental Technologies Verification (ETV) pilot programme, which aims at promoting high value environmental technologies by providing a third-party validation of their performance.

An added-value manufacturing KIC could be also a connection point for synergy effects with the European Technology Research Council, which the High-Level Group on Key Enabling Technologies recommends for promoting excellence in technological research and innovation.

A KIC in this area would be complementary to these activities since it would focus on transdisciplinary activities within the knowledge triangle with a strong focus on entrepreneurial education.

⁽¹⁾ http://ec.europa.eu/enterprise/sectors/ict/files/kets/hlg_report_final_en.pdf

4. CONCLUSION

A KIC which focuses on the integration of all stakeholders concerned with manufacturing and which puts a strong focus on re-shaping the education agenda in this field would be well-suited to address the challenges outlined above. It also meets the criteria put forward for the selection of KIC themes in the SIA:

- It addresses a major economic and societal relevant challenge Europe is facing (to increase the competitiveness of the Member States on the global market and contribute to the development of a more sustainable and environmentally-friendly manufacturing process), and contributes to the delivery of the Europe 2020 agenda of smart and sustainable growth.
- This KIC focus is aligned with the priorities defined in Horizon 2020 and complementary with other Union activities in the area.
- It can build on a solid industrial sector which will be attracted by a KIC.
- It offers possibilities for various emerging products, services and business models, and – above all – it will be well-suited to address the urgent need for qualified people in this sector.
- It takes a systemic approach and thus requires transdisciplinary work and the development of new education across the boundaries of disciplines.
- It will bring together a critical mass of excellent research, innovation, education and training stakeholders along the value chain, which would otherwise not unite.
- It will address the European paradox, since it will capitalise on the Union's strong research base and find new innovative approaches to ensure a more competitive, sustainable and resource-efficient manufacturing sector.

Factsheet 5: Urban Mobility

1. THE CHALLENGE

The theme of smart, green and integrated transport has been identified as one of the major societal challenges which will be addressed within the framework of Horizon 2020. The 2011 Transport White Paper further reinforces the importance of taking action in this domain during the next decade. Urban mobility is a particularly challenging task. It addresses a number of topics such as transport (including new mobility concepts, transport organisation, logistics, transport systems safety and security), environmental issues (reduction of greenhouse gases, air pollution and noise) urban planning (new concepts for bringing work and living closer together), and has an important impact both at the economic and social levels (new business creation, employment, social inclusion, housing and location strategies). The overarching aim is to improve the quality of life of European citizens who – in increasing numbers – live in large urban conglomerations where much of Europe's economic performance is generated⁽¹⁾.

Sustainable urban mobility can only be achieved if breakthrough innovations leading to greener, more inclusive, safer and smarter solutions are found. Failing to achieve this will – in the long run – result in high societal, ecological, and economic costs. However, new innovative mobility concepts – in particular when individual means of transportation are to be replaced by public and collective means of transport – should be accepted by citizens. Bringing about behavioural changes with no disadvantages for the quality of life and the cost of living in urban areas will be one of the great challenges to be addressed in this area.

2. RELEVANCE AND IMPACT

The key objective of a KIC on urban mobility will be to ensure a greener, more inclusive, safer and smarter urban mobility system.

As already outlined above, the theme is highly relevant from a societal and public policy point of view. It also is highly relevant from a socio-economic perspective since it involves important economic sectors in GDP and employment terms, such as the automotive or the construction sectors. Urban mobility is, in addition, linked with environmental protection strategies and fully embedded in policies of social inclusion, location, housing and urban design.

⁽¹⁾ More than 70 % of Europeans live in urban areas, which represent more than 25 % of the Union territory. Around 85 % of the Union's GDP is generated in urban areas. Urbanisation is expected to rise in Europe to some 83 % by 2050.

A KIC on urban mobility is both in line with the priorities defined in Horizon 2020 and with Europe 2020 strategy objectives of achieving a smarter, more sustainable, low carbon and inclusive urban development. A KIC in this thematic area could contribute to each of Europe 2020 strategy objectives by, for example, the promotion of eco-efficient solutions, intelligent ICT schemes for traffic management, and provision of more efficient and affordable transport services.

In fact, since urban mobility is by nature systemic, a KIC on this area could offer many possibilities for innovation along the innovation chain, such as the development of multi-modal transport systems, and smarter and more sustainable transport solutions.

A KIC on urban mobility draws on a solid technological and industrial base and offers a potential for new products and services ⁽¹⁾, in particular in the fields of sustainable planning and eco-industries.

Furthermore, the development of innovative urban mobility models will also benefit from the strong policy attention and support that this thematic priority profits from. In addition, these innovative urban models can have a global impact if they are transferred as best practices to the massively growing urban conglomerations in other parts of the world, especially in Africa, Asia and Latin America.

A KIC in this area will put urban mobility and urban transport planning in the wider context of sustainable urban planning and spatial development at local and regional level. The KIC would thus have the advantage of working in a multi-disciplinary and cross-sectoral field and of contributing to overcome the current levels of organisational fragmentation the sector faces. It would create the opportunity to establish a closer cooperation between public authorities (mainly at local, regional levels), local associations, and the private sector (such as developers and infrastructure actors), research institutes and universities (integrating the knowledge triangle).

Bringing together world-class partners in new configurations will give the KIC on urban mobility the possibility of optimising existing resources and exploit the business opportunities created through these new value-chains.

The KIC on Urban Mobility will focus on those activities of the innovation triangle which can benefit from additional Union support specifically via the EIT. In reality, the major added value of a KIC in this area will be its role in integrating the three strands of the knowledge triangle and in bringing systemic change in the way the innovation players work together. Likewise, KIC focus on people-driven innovation, which puts students, researchers and entrepreneurs at the heart of KIC efforts, will be fundamental to address the challenges outlined above. Consequently, there will be a strong emphasis on education/training, entrepreneurship and deployment of results, e.g. developing skills and knowledge of urban transport professionals in local and regional administrations (life-long learning / staff exchange programmes / professional training), proposing specific higher education programmes in Urban Mobility (summer schools / exchange schemes), taking innovative transport concepts successfully to the market (support for spin-offs and start-ups from universities and research institutions, etc.).

Moreover, the concept of co-location could be strengthened within a KIC focussing on this theme, since naturally this thematic area has a strong local and regional dimension.

3. SYNERGIES AND COMPLEMENTARITIES WITH EXISTING INITIATIVES

Mobility related issues are strongly supported by many Union initiatives. The Union is fully engaged in this field.

Links with other Union activities exist and will be enhanced. A KIC on urban mobility will take into account the actions developed in the framework of the Action Plan on Urban Mobility and the Intelligent Transport System Action Plan.

It will, in particular, co-operate with the planned European initiatives on smart cities and communities, encompassing energy efficiency, ICT and urban transport.

⁽¹⁾ Some examples of new potential markets: new services for travellers, maintenance, and management of traffic movements and road congestion; new applications in vehicles; immersive communication services to support communication and avoid travelling (JRC 65426 EN).

A KIC would, in particular, create complementarity in educating key actors, but also in providing a structured network of practitioners well placed to identify framework conditions and best practise on policy and regulatory issues having an impact on the sector.

Coordination is also needed with the Joint Programming Initiative "Urban Europe", which will pool national research efforts to transform urban areas to centres of innovation and technology, realise eco-friendly and intelligent intra-urban transport logistic systems, reduce the ecological footprint and enhance climate neutrality. A KIC in this area will speed up and foster the exploitation of excellent public research pooled together by these JPIs, and thereby address fragmentation in the innovation landscape.

The CIVITAS initiative which supports demonstration and research projects to implement innovative measures in clean urban transport, and the European Industrial Initiative on Smart Cities & Communities aiming at making the production and use of energy in cities more sustainable and efficient will also be natural cooperation initiatives of a KIC on urban mobility.

A KIC in this area could also establish links with the transport and energy related European Technology Platforms (ETPs), the Public Private Partnership (PPP) on European Green Cars, and the numerous Framework Programme (FP) projects in this area. The KIC would take into account the research priorities and action plans defined in the framework of the ETPs and the research work carried out so far by the PPP and FP projects to enhance and accelerate the take up and exploitation of these research outcomes.

Complementarities will be also sought with the "European Mobile and Mobility Industries Alliance". Co-funded under the Competitiveness and Innovation Programme, the European Mobile and Mobility Industries Alliance aims at bringing together regional and national policy makers supporting innovative service solutions in mobile and mobility industries in view to mobilise more and better support to innovative service SMEs in such industries.

It will also build on the Intelligent Energy Europe, the eco-innovation market replication, and the ICT based services and pilot projects for smart urban mobility under the Competitiveness and Innovation Programme (CIP).

A KIC in this area would be complementary to these activities since it would focus on transdisciplinary activities within the knowledge triangle with a strong focus on innovative products and services and entrepreneurial education.

A KIC focusing on urban mobility would also be complementary to some of the specific activities already pursued by two existing KICs. Namely, Climate KIC activities under the theme transitioning to low-carbon resilient cities, and EIT ICT Labs work under the focus areas of intelligent transportation systems and digital cities of the future. The KIC on urban mobility will take on board the work carried in the framework of these KICs and place it in the wider context of a greener, more inclusive, safer and smarter urban mobility system.

4. CONCLUSION

A KIC focusing on urban mobility is most suited to address the challenges outlined above. It also meets the criteria put forward for the selection of KIC themes:

- It addresses a major economic and societal relevant challenge (to achieve a European transport system that is resource-efficient, environmentally-friendly, safe and seamless for the benefit of the citizens, the economy and the society), and contributes to the delivery of the Europe 2020 agenda and its objectives on climate and energy, employment, innovation and education.
- This KIC focus is aligned with priorities defined in Horizon 2020 and complementary with other Union activities in the transport, environmental and energy areas.
- By strengthening entrepreneurial thinking it integrates emerging technologies with new value chains and supports the translation of academic research on into products and services.
- It will thus address the European paradox, since it will capitalise Union's strong research base and find new innovative approaches to ensure a greener, more inclusive, safer and smarter urban mobility system.

- It will blend a critical mass of excellent research, innovation, education and training stakeholders, which would otherwise not unite.
 - It adopts a cross-sectoral approach and therefore connects the different levels of responsibility from private entities to public administration – in particular at local level - to the individual citizen.
 - It requires transdisciplinary work involving different areas of knowledge, and the development of new types of education across the boundaries of disciplines.
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DECISION No 1313/2013/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 December 2013
on a Union Civil Protection Mechanism
(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 196 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 Committee of the Regions ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) In view of the significant increase in the numbers and severity of natural and man-made disasters in recent years and in a situation where future disasters will be more extreme and more complex with far-reaching and longer-term consequences as a result, in particular, of climate change and the potential interaction between several natural and technological hazards, an integrated approach to disaster management is increasingly important. The European Union should promote solidarity and should support, complement, and facilitate the coordination of Member States' actions in the field of civil protection with a view to improving the effectiveness of systems for preventing, preparing for and responding to natural and man-made disasters.

(2) A Community Civil Protection Mechanism was established by Council Decision 2001/792/EC, Euratom ⁽²⁾, recast by Council Decision 2007/779/EC, Euratom ⁽³⁾. The financing of that Mechanism has been ensured by Council Decision 2007/162/EC, Euratom ⁽⁴⁾ which established a Civil Protection Financial Instrument ("the Financial Instrument"). It provides for Union financial

assistance to be given, both as a contribution to improving the effectiveness of the response to major emergencies and to enhancing preventive and preparedness measures for all kinds of emergencies, including the continuation of measures that were previously taken under Council Decision 1999/847/EC ⁽⁵⁾. The Financial Instrument expires on 31 December 2013.

(3) The protection to be ensured under the Union Civil Protection Mechanism ("the Union Mechanism") should cover primarily people, but also the environment and property, including cultural heritage, against all kinds of natural and man-made disasters, including environmental disasters, marine pollution and acute health emergencies, occurring inside or outside the Union. Civil protection and other emergency assistance under the Union Mechanism may be required in all of those disasters to complement the response capabilities of the affected country. As regards disasters caused by acts of terrorism, nuclear or radiological accidents, the Union Mechanism should cover only the preparedness and response actions within the field of civil protection.

(4) The Union Mechanism should also contribute to the implementation of Article 222 of the Treaty on the Functioning of the European Union (TFEU), by making available its resources and capabilities as necessary.

(5) The Union Mechanism constitutes a visible expression of European solidarity by ensuring a practical and timely contribution to prevention of and preparedness for disasters and the response to disasters and imminent disasters without prejudice to the relevant guiding principles and arrangements in the field of civil protection. This Decision should therefore not affect the reciprocal rights and obligations of the Member States under bilateral or multilateral treaties, which relate to the matters covered by this Decision, nor Member States' responsibility to protect people, the environment, and property on their territory.

(6) The Union Mechanism should take due account of relevant Union law and international commitments, and exploit synergies with relevant Union initiatives, such as the European Earth Observation Programme (Copernicus), the European Programme for Critical Infrastructure Protection (EPCIP) and the Common Information Sharing Environment (CISE).

⁽¹⁾ OJ C 277, 13.9.2012, p. 164.

⁽²⁾ Council Decision 2001/792/EC, Euratom of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions (OJ L 297, 15.11.2001, p. 7).

⁽³⁾ Council Decision 2007/779/EC, Euratom of 8 November 2007 establishing a Community Civil Protection Mechanism (OJ L 314, 1.12.2007, p. 9).

⁽⁴⁾ Council Decision 2007/162/EC, Euratom of 5 March 2007 establishing a Civil Protection Financial Instrument (OJ L 71, 10.3.2007, p. 9).

⁽⁵⁾ Council Decision 1999/847/EC of 9 December 1999 establishing a Community action programme in the field of civil protection (OJ L 327, 21.12.1999, p. 53).

- (7) The role of regional and local authorities in disaster management is of great importance. Regional and local authorities thus need to be appropriately involved in the activities carried out under this Decision in accordance with Member States' national structures.
- (8) Prevention is of key importance for protection against disasters and requires further action as called for in the Council Conclusions of 30 November 2009 and in the European Parliament Resolution of 21 September 2010 on the Commission's Communication entitled a "Community approach on the prevention of natural and man-made disasters". The Union Mechanism should include a general policy framework for Union actions on disaster risk prevention, aimed at achieving a higher level of protection and resilience against disasters by preventing or reducing their effects and by fostering a culture of prevention, including due consideration of the likely impacts of climate change and the need for appropriate adaptation action. From this perspective, risk assessments, risk management planning, the assessment of the risk management capability conducted by each Member State at national or appropriate sub-national level involving, as appropriate, other relevant services, an overview of risks prepared at Union level, and peer reviews are essential to ensure an integrated approach to disaster management, linking risk prevention, preparedness and response actions. Therefore, the Union Mechanism should include a general framework for the sharing of information on risks and risk management capabilities without prejudice to Article 346 TFEU, which guarantees that no Member State should be obliged to supply information, the disclosure of which it considers contrary to the essential interests of its security.
- (9) By contributing to the further development and better integration of transnational detection and early warning and alert systems of European interest, the Union should assist Member States in minimising the lead time to respond to disasters and to alert Union citizens. Such systems should take into account and build upon existing and future information sources and systems, while encouraging relevant new technologies.
- (10) The Union Mechanism should include a general policy framework aimed at continuously improving the level of preparedness of civil protection systems, services, their personnel and population within the Union. This should include a programme of exercises, a programme of lessons learnt as well as training programmes and a training network, at Union and Member State level, on prevention of, preparedness for and response to disasters as called for in the Council Conclusions of 27 November 2008 on European disaster management training arrangements.
- (11) The development of civil protection assistance intervention modules, consisting of the resources of one or more Member States which aim to be fully interoperable, should be pursued in order to strengthen cooperation in the field of civil protection and further develop the Member States' coordinated joint rapid response. Modules should be organised at the level of the Member States and be subject to their command and control.
- (12) The Union Mechanism should facilitate the mobilisation and coordination of assistance interventions. The Union Mechanism should be based on a Union structure consisting of an Emergency Response Coordination Centre (ERCC), a European Emergency Response Capacity (EERC) in the form of a voluntary pool of pre-committed capacities from the Member States, trained experts, a Common Emergency Communication and Information System (CECIS) managed by the Commission and contact points in the Member States. It should provide a framework for collecting validated information on the situation, for dissemination to the Member States and for sharing lessons learnt from interventions.
- (13) In order to improve the planning of disaster response operations under the Union Mechanism and to enhance the availability of key capacities, it is necessary to develop an EERC in the form of a voluntary pool of pre-committed capacities from the Member States and a structured process to identify potential capacity gaps.
- (14) With respect to disaster response assistance interventions outside the Union, the Union Mechanism should facilitate and support actions undertaken by the Member States and the Union as a whole in order to promote consistency in international civil protection work. The United Nations, in cases where it is present, has an overall coordinating role for relief operations in third countries. Assistance provided under the Union Mechanism should be coordinated with the United Nations and other relevant international actors to maximise the use of available resources and avoid any unnecessary duplication of effort. Enhanced coordination of civil protection assistance through the Union Mechanism is a prerequisite to supporting the overall coordination effort and ensuring a comprehensive Union contribution to the overall relief effort. In disasters where assistance is provided under both the Union Mechanism and Council Regulation (EC) No 1257/96 ⁽¹⁾, the Commission should ensure the effectiveness, coherence and complementarities of the overall Union response respecting the European Consensus on Humanitarian Aid ⁽²⁾.

⁽¹⁾ Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

⁽²⁾ Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission (OJ C 25, 30.1.2008, p. 1).

- (15) The availability and accessibility of adequate means of transport needs to be improved to support the development of a rapid response capability at the Union level. The Union should support and complement the efforts of the Member States by facilitating the coordination and pooling of transport resources and contributing, where necessary, to the financing of additional means of transport, subject to certain criteria and taking into account existing systems.
- (16) Assistance interventions should be demand driven and subject to full coordination on site so as to maximise the effectiveness and ensure access to affected populations. The Commission should provide appropriate logistical support for the dispatched expert teams.
- (17) The Union Mechanism may also be used for civil protection support to consular assistance to the citizens of the Union in disasters in third countries, if requested by the consular authorities of the Member States concerned. The Member States concerned should, whenever possible, coordinate such requests among each other and with any other relevant actor to ensure the optimal use of the Union Mechanism and avoid practical difficulties on the ground. This support could be requested for instance by the "Lead State" or the Member State coordinating assistance for all Union citizens. The "Lead State" concept should be understood in accordance with the European Union guidelines on the implementation of the consular Lead State concept⁽¹⁾. This Decision applies without prejudice to the Union rules on consular protection for citizens of the Union abroad.
- (18) When planning response operations, it is useful to also liaise with relevant non-governmental organisations and other relevant entities to identify any additional response capacities that they may be able to make available in case of disasters via the competent authorities of the Member States.
- (19) The use of military means under civilian lead as a last resort may constitute an important contribution to disaster response. Where the use of military capacities in support of civil protection operations is considered to be appropriate, cooperation with the military should follow the modalities, procedures and criteria established by the Council or its competent bodies for making available to the Union Mechanism military capacities relevant to civil protection and should be in line with the relevant international guidelines.
- (20) When assistance under the Union Mechanism contributes to a Union humanitarian response, particularly in complex emergencies, actions receiving financial assistance under this Decision should be consistent with the humanitarian principles and the principles on the use of civil protection and military resources set out in the European Consensus on Humanitarian Aid.
- (21) Participation of European Free Trade Association (EFTA) countries that are members of the European Economic Area (EEA), acceding countries, candidate countries and potential candidates should be possible. Candidate countries and potential candidates which do not participate in the Union Mechanism, as well as countries which are part of the European Neighbourhood Policy (ENP), should also benefit from certain actions financed under this Decision.
- (22) In order to ensure uniform conditions for the implementation of this Decision, implementing powers should be conferred on the Commission with respect to the interaction of the ERCC with the Member States' contact points and the operational procedures for the response to disasters inside and outside the Union; the components of the CECIS and the organisation of information sharing through the CECIS; the process for deploying expert teams; the identification of modules, other response capacities and experts; the operational requirements for the functioning and interoperability of modules; the capacity goals, the quality and interoperability requirements and the certification and registration procedure necessary for the functioning of the EERC, as well as the financial arrangements; identifying and filling gaps in the EERC; the organisation of the training programme, exercise framework and lessons learnt programme; and the organisation of support for the transport of assistance. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽²⁾.
- (23) The examination procedure should be used for the adoption of the implementing acts provided for in this Decision.
- (24) This Decision strengthens the cooperation between the Union and Member States and facilitates coordination in the field of civil protection, allowing more effective actions by reason of scale and complementarity. Where a disaster overwhelms the response capabilities of a Member State, that State may decide to appeal to the Union Mechanism to complement its own civil protection and other disaster response resources.

⁽¹⁾ OJ C 317, 12.12.2008, p. 6.

⁽²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011 p. 13).

- (25) Since the objectives of this Decision cannot be sufficiently achieved by the Member States but can rather, by reason of scale or effects, 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.
- (26) This Decision does not affect actions falling under a future Union legislative act relating to the establishment of an instrument for stability, the public health measures adopted under Union legal acts concerning Union action programmes in the field of health, nor the consumer safety measures adopted under a future Union legislative act relating to a consumer programme for the period 2014-2020.
- (27) For reasons of coherence, actions falling under Council Decision 2007/124/EC, Euratom⁽¹⁾ and under a future Union legislative act relating to the establishment, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management or relating to the maintenance of law and order and the safeguarding of internal security are not covered by this Decision. This Decision does not apply to activities covered by Regulation (EC) No 1257/96.
- (28) The provisions of this Decision are without prejudice to the adoption of legally binding acts under the Treaty Establishing the European Atomic Energy Community, setting out specific emergency measures in case of nuclear or radiological disasters.
- (29) This Decision covers actions in the field of prevention of, preparedness for and response to marine pollution with the exception of actions falling under Regulation (EC) No 1406/2002 of the European Parliament and of the Council⁽²⁾.
- (30) In order for the Commission to ensure the implementation of this Decision, the Commission may finance such activities relating to preparation, monitoring, control, audit and evaluation as are required for the management of the Union Mechanism and the achievement of its objectives.
- (31) The reimbursement of expenses and award of public procurement contracts and grants under this Decision should be implemented in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽³⁾. Due to the specific nature of action in the field of civil protection, it is appropriate to provide that grants may be awarded to legal persons, whether governed by private or public law. It is also important that the rules of Regulation (EU, Euratom) No 966/2012 be complied with, in particular regarding the principles of economy, efficiency and effectiveness laid down therein.
- (32) 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, unduly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.
- (33) This Decision lays down a financial envelope for the entire duration of the Union Mechanism which is to constitute the prime reference amount, within the meaning of Point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽⁴⁾, for the European Parliament and the Council during the annual budgetary procedure. This reference amount is partly fed from Heading 3 "Security and Citizenship" and partly from Heading 4 "Global Europe" of the multiannual financial framework 2014-2020.
- (34) The financial envelope for the implementation of this Decision should be allocated according to the percentages set out in Annex I.
- (35) In order to review the breakdown of the financial envelope for the implementation of this Decision by 30 June 2017, in light of the outcome of the interim evaluation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. The urgency procedure should apply if, at any time, an immediate revision of the budgetary resources available for response actions is needed. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

⁽¹⁾ Council Decision 2007/124/EC, Euratom of 12 February 2007 establishing for the period 2007 to 2013, as part of General Programme on Security and Safeguarding Liberties, the Specific Programme "Prevention, Preparedness and Consequence Management of Terrorism and other Security related risks" (OJ L 58, 24.2.2007, p. 1).

⁽²⁾ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).

⁽³⁾ 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 European Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽⁴⁾ OJ C 373, 20.12.2013, p. 1

(36) This Decision should apply as of 1 January 2014 as it is related to the multiannual financial framework 2014-2020,

No 1082/2013/EU of the European Parliament and of the Council⁽¹⁾ or Union legislation concerning action programmes in the fields of health, home affairs and justice.

HAVE ADOPTED THIS DECISION:

CHAPTER I

GENERAL AND SPECIFIC OBJECTIVES, SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

General objective and subject matter

1. The Union Civil Protection Mechanism ("the Union Mechanism") shall aim to strengthen the cooperation between the Union and the Member States and to facilitate coordination in the field of civil protection in order to improve the effectiveness of systems for preventing, preparing for and responding to natural and man-made disasters.

2. The protection to be ensured by the Union Mechanism shall cover primarily people, but also the environment and property, including cultural heritage, against all kinds of natural and man-made disasters, including the consequences of acts of terrorism, technological, radiological or environmental disasters, marine pollution, and acute health emergencies, occurring inside or outside the Union. In the case of the consequences of acts of terrorism or radiological disasters, the Union Mechanism may cover only preparedness and response actions.

3. The Union Mechanism shall promote solidarity between the Member States through practical cooperation and coordination, without prejudice to the Member States' primary responsibility to protect people, the environment, and property, including cultural heritage, on their territory against disasters and to provide their disaster-management systems with sufficient capabilities to enable them to cope adequately and in a consistent manner with disasters of a nature and magnitude that can reasonably be expected and prepared for.

4. This Decision lays down the general rules for the Union Mechanism and the rules for the provision of financial assistance under the Union Mechanism.

5. The Union Mechanism shall not affect obligations under existing relevant legal acts of the Union, under the Treaty establishing the European Atomic Energy Community or under existing international agreements.

6. This Decision shall not apply to the actions carried out under Regulation (EC) No 1257/96, Regulation (EC) No 1406/2002, Regulation (EC) No 1717/2006, Decision

Article 2

Scope

1. This Decision shall apply to cooperation in the field of civil protection. Such cooperation shall include:

(a) prevention and preparedness actions inside the Union and, as far as Articles 5(2) and 13(3) and 28 are concerned, also outside the Union; and

(b) actions to assist with the response to immediate adverse consequences of a disaster inside or outside the Union, including in the countries referred to in Article 28(1), following a request for assistance through the Union Mechanism.

2. This Decision shall take into account the special needs of isolated, outermost and other regions or islands of the Union in terms of prevention of, preparedness for and response to disasters as well as the special needs of the overseas countries and territories in terms of disaster response.

Article 3

Specific objectives

1. The Union Mechanism shall support, complement and facilitate coordination of Member States' action in pursuit of the following common specific objectives:

(a) to achieve a high level of protection against disasters by preventing or reducing their potential effects, by fostering a culture of prevention and by improving cooperation between the civil protection and other relevant services;

(b) to enhance preparedness at Member State and Union level to respond to disasters;

(c) to facilitate rapid and efficient response in the event of disasters or imminent disasters; and

(d) to increase public awareness and preparedness for disasters.

2. Indicators shall be used for monitoring, evaluating and reviewing as appropriate the application of this Decision. Those indicators shall be:

(a) progress in implementing the disaster prevention framework: measured by the number of Member States that have made available to the Commission a summary of their risk assessments and an assessment of their risk management capability as referred to in Article 6;

⁽¹⁾ Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC (OJ L 293, 5.11.2013, p. 1).

- (b) progress in increasing the level of readiness for disasters: measured by the quantity of response capacities included in the voluntary pool in relation to the capacity goals referred to in Article 11 and the number of modules registered in the CECIS;
- (c) progress in improving the response to disasters: measured by the speed of interventions under the Union Mechanism and the extent to which the assistance contributes to the needs on the ground; and
- (d) progress in increasing public awareness and preparedness for disasters: measured by the level of awareness of Union citizens of the risks in their region.

Article 4

Definitions

For the purpose of this Decision, the following definitions shall apply:

1. 'disaster' means any situation which has or may have a severe impact on people, the environment, or property, including cultural heritage;
2. 'response' means any action taken upon request for assistance under the Union Mechanism in the event of an imminent disaster, or during or after a disaster, to address its immediate adverse consequences;
3. 'preparedness' means a state of readiness and capability of human and material means, structures, communities and organisations enabling them to ensure an effective rapid response to a disaster, obtained as a result of action taken in advance;
4. 'prevention' means any action aimed at reducing risks or mitigating adverse consequences of a disaster for people, the environment and property, including cultural heritage;
5. 'early warning' means the timely and effective provision of information that allows action to be taken to avoid or reduce risks and the adverse impacts of a disaster, and to facilitate preparedness for an effective response;
6. 'module' means a self-sufficient and autonomous predefined task- and needs-driven arrangement of Member States' capabilities or a mobile operational team of the Member States, representing a combination of human and material means that can be described in terms of its capacity for intervention or by the task(s) it is able to undertake;
7. 'risk assessment' means the overall cross-sectoral process of risk identification, risk analysis, and risk evaluation undertaken at national or appropriate sub-national level;
8. 'risk management capability' means the ability of a Member State or its regions to reduce, adapt to or mitigate risks (impacts and likelihood of a disaster), identified in its risk assessments to levels that are acceptable in that Member State. Risk management capability is assessed in terms of the technical, financial and administrative capacity to carry out adequate:
 - (a) risk assessments;
 - (b) risk management planning for prevention and preparedness; and
 - (c) risk prevention and preparedness measures;
9. 'host nation support' means any action undertaken in the preparedness and response phases by the country receiving or sending assistance, or by the Commission, to remove foreseeable obstacles to international assistance offered through the Union Mechanism. It includes support from Member States to facilitate the transiting of this assistance through their territory;
10. 'response capacity' means assistance that may be provided through the Union Mechanism upon request;
11. 'logistical support' means the essential equipment or services required for expert teams referred to in Article 17(1) to perform their tasks, inter alia communication, temporary accommodation, food or in-country transport.

CHAPTER II

PREVENTION

Article 5

Prevention actions

1. To fulfil the prevention objectives and carry out prevention actions, the Commission shall:
 - (a) take action to improve the knowledge base on disaster risks and facilitate the sharing of knowledge, best practices and information, including among Member States that share common risks;
 - (b) support and promote Member States' risk assessment and mapping activity through the sharing of good practices, and facilitate access to specific knowledge and expertise on issues of common interest;
 - (c) establish and regularly update a cross-sectoral overview and map of natural and man-made disaster risks the Union may face, by taking a coherent approach across different policy areas that may address or affect disaster prevention and taking due account of the likely impacts of climate change;

- (d) encourage an exchange of good practices on preparing national civil protection systems to cope with the impact of climate change;
- (e) promote and support the development and implementation of Member States' risk management activity through the sharing of good practices, and facilitate access to specific knowledge and expertise on issues of common interest;
- (f) compile and disseminate the information made available by Member States; organise an exchange of experiences about the assessment of risk management capability; develop, together with the Member States and by 22 December 2014, guidelines on the content, methodology and structure of those assessments; and facilitate the sharing of good practices in prevention and preparedness planning, including through voluntary peer reviews;
- (g) report periodically, in accordance with the deadlines set out in point (c) of Article 6, to the European Parliament and to the Council on the progress made in the implementation of Article 6;
- (h) promote the use of various Union funds which may support sustainable disaster prevention and encourage the Member States and regions to exploit those funding opportunities;
- (i) highlight the importance of risk prevention and support the Member States in awareness-raising, public information and education;
- (j) promote prevention measures in the Member States and third countries, referred to in Article 28, through the sharing of good practices, and facilitate access to specific knowledge and expertise on issues of common interest; and
- (k) in close consultation with Member States, take additional necessary supporting and complementary prevention action in order to achieve the objective specified in point (a) of Article 3(1).

2. At the request of a Member State, a third country or the United Nations or its agencies, the Commission may deploy an expert team on site to provide advice on prevention measures.

Article 6

Risk management

In order to promote an effective and coherent approach to prevention of and preparedness for disasters by sharing non-sensitive information, namely information whose disclosure would not be contrary to the essential interests of Member States' security, and best practices within the Union Mechanism, Member States shall:

- (a) develop risk assessments at national or appropriate sub-national level and make available to the Commission a

summary of the relevant elements thereof by 22 December 2015 and every three years thereafter;

- (b) develop and refine their disaster risk management planning at national or appropriate sub-national level;
- (c) make available to the Commission the assessment of their risk management capability at national or appropriate sub-national level every three years following the finalisation of the relevant guidelines as referred to in point (f) of Article 5(1) and whenever there are important changes; and
- (d) participate, on a voluntary basis, in peer reviews on the assessment of risk management capability.

CHAPTER III

PREPAREDNESS

Article 7

Emergency Response Coordination Centre

The Emergency Response Coordination Centre (ERCC) is hereby established. The ERCC shall ensure 24/7 operational capacity, and serve the Member States and the Commission in pursuit of the objectives of the Union Mechanism.

Article 8

General preparedness actions of the Commission

The Commission shall carry out the following preparedness actions:

- (a) manage the ERCC;
- (b) manage a Common Emergency Communication and Information System (CECIS) to enable communication and sharing of information between the ERCC and the Member States' contact points;
- (c) contribute to the development and better integration of transnational detection and early warning and alert systems of European interest in order to enable a rapid response, and to promote the inter-linkage between national early warning and alert systems and their linkage to the ERCC and the CECIS. Those systems shall take into account and build upon existing and future information, monitoring and detection sources and systems;
- (d) establish and manage the capability to mobilise and dispatch expert teams, responsible for:
 - (i) assessing the needs that can possibly be addressed under the Union Mechanism in the state requesting assistance,

- (ii) facilitating, when necessary, the coordination of disaster response assistance on site and liaising with the competent authorities of the state requesting assistance, and
- (iii) supporting the requesting state with expertise on prevention, preparedness or response actions;
- (e) establish and maintain the capability to provide logistical support for those expert teams;
- (f) develop and maintain a network of trained experts of the Member States, who can be available at short notice to assist the ERCC in the monitoring of information and facilitating coordination;
- (g) facilitate the coordination of the Member States' pre-positioning of disaster response capacities inside the Union;
- (h) support efforts to improve the inter-operability of modules and other response capacities, taking into account the best practices at the level of the Member States and at international level;
- (i) take, within its sphere of competence, the necessary actions to facilitate host nation support, including developing and updating, together with Member States, guidelines on host nation support, on the basis of operational experience;
- (j) support the creation of voluntary peer review assessment programmes for the Member States' preparedness strategies, based on pre-defined criteria, which will enable recommendations to be formulated to strengthen the level of preparedness of the Union; and
- (k) in close consultation with the Member States, take additional necessary supporting and complementary preparedness action to achieve the objective specified in point (b) of Article 3(1).

Article 9

General preparedness actions of the Member States

1. Member States shall, on a voluntary basis, work towards developing modules, in particular to meet priority intervention or support needs under the Union Mechanism.

Member States shall identify, in advance, modules, other response capacities and experts within their competent services, in particular within their civil protection or other emergency services, which could be made available for intervention upon request through the Union Mechanism. They shall take into account that the composition of modules or other response capacities may depend on the type of disaster and on the disaster-related particular needs.

2. Modules shall be made up of the resources of one or more Member States and shall:

- (a) be able to perform pre-defined tasks in the areas of response in accordance with established international guidelines and therefore be able to:
 - (i) be dispatched at very short notice following a request for assistance through the ERCC; and
 - (ii) work self-sufficiently and autonomously for a given period of time;
- (b) be interoperable with other modules;
- (c) undertake training and exercises in order to meet the inter-operability requirement;
- (d) be placed under the authority of a person who is responsible for the operation of modules; and
- (e) be able to cooperate with other Union bodies and/or international institutions, in particular the United Nations, as appropriate.

3. The Member States shall, on a voluntary basis, identify, in advance, experts that could be dispatched as members of expert teams, as specified in point (d) of Article 8.

4. The Member States shall consider providing, as required, other response capacities, which could be available from the competent services, or which may be provided by non-governmental organisations and other relevant entities.

Other response capacities may comprise resources from one or more Member States and, where appropriate, shall:

- (a) be able to perform tasks in the areas of response in accordance with established international guidelines and therefore be able to:
 - (i) be dispatched at very short notice following a request for assistance through the ERCC; and
 - (ii) work self-sufficiently and autonomously where necessary for a given period of time;
- (b) be able to cooperate with other Union bodies and/or international institutions, in particular the United Nations, as appropriate.

5. Member States may, subject to appropriate security safeguards, provide information about relevant military capacities that could be used as a last resort as part of the assistance through the Union Mechanism, such as transport and logistical or medical support.

6. Member States shall provide to the Commission relevant information on the experts, modules and other response capacities that they make available for assistance through the Union Mechanism as referred to in paragraphs 1 to 5 and update this information when necessary.

7. Member States shall designate contact points, as referred to in point (b) of Article 8, and inform the Commission accordingly.

8. Member States shall take the appropriate preparedness actions to facilitate host nation support.

9. Member States, supported by the Commission in accordance with Article 23, shall take the appropriate measures to ensure the timely transport of assistance they offer.

Article 10

Planning of operations

1. The Commission and Member States shall work together to improve the planning of disaster response operations under the Union Mechanism, including through scenario-building for disaster response, asset mapping and the development of plans for the deployment of response capacities.

2. The Commission and the Member States shall identify and promote synergies between civil protection assistance and humanitarian aid funding provided by the Union and Member States in the planning of response operations for humanitarian crises outside the Union.

Article 11

European Emergency Response Capacity

1. A European Emergency Response Capacity (EERC) shall be established. It shall consist of a voluntary pool of pre-committed response capacities of the Member States and include modules, other response capacities and experts.

2. On the basis of identified risks, the Commission shall define the types and the number of key response capacities required for the EERC ("capacity goals").

3. The Commission shall define quality requirements for the response capacities that Member States commit to the EERC. The quality requirements shall be based on established international standards, where such standards already exist. The Member States shall be responsible for ensuring the quality of their response capacities.

4. The Commission shall establish and manage a process for certification and registration of the response capacities that the Member States make available to the EERC.

5. Member States shall on a voluntary basis identify and register the response capacities which they commit to the EERC. The registration of multinational modules provided by two or more Member States shall be undertaken jointly by all the Member States concerned.

6. The response capacities that Member States make available for the EERC shall remain available for national purposes at all times.

7. Response capacities that Member States make available for the EERC shall be available for response operations under the Union Mechanism following a request for assistance through the ERCC. The ultimate decision on their deployment shall be taken by the Member States which registered the response capacity concerned. When domestic emergencies, force majeure or, in exceptional cases, serious reasons prevent a Member State from making those response capacities available in a specific disaster, that Member State shall inform the Commission as soon as possible by referring to this Article.

8. In the event of deployment, Member States' response capacities shall remain under their command and control and can be withdrawn when domestic emergencies, force majeure or, in exceptional cases, serious reasons prevent a Member State from keeping those response capacities available, in consultation with the Commission. The coordination among the different response capacities shall be facilitated where appropriate by the Commission through the ERCC in accordance with Articles 15 and 16.

9. Member States and the Commission shall ensure an appropriate public awareness of the interventions involving the EERC.

Article 12

Addressing response capacity gaps

1. The Commission shall monitor progress towards the capacity goals set in accordance with Article 11(2) and identify potentially significant response capacity gaps in the EERC.

2. Where potentially significant gaps have been identified, the Commission shall examine whether the necessary capacities are available to the Member States outside the EERC.

3. The Commission shall encourage Member States to address, either individually or through a consortium of Member States cooperating together on common risks, any strategic capacity gaps that have been identified in accordance with paragraph 2. The Commission may support Member States in those activities in accordance with Article 20, points (i) and (j) of Article 21(1) and Article 21(2).

4. The Commission shall inform the European Parliament and the Council every two years on the progress made on the achievement of capacity goals and remaining gaps in the EERC.

Article 13

Training, exercises, lessons learnt and knowledge dissemination

1. The Commission shall within the Union Mechanism carry out the following tasks in the field of training, exercises, lessons learnt and knowledge dissemination:

(a) set up and manage a training programme for civil protection and emergency management personnel on prevention of, preparedness for and response to disasters. The programme shall include joint courses and a system for exchange of experts, whereby individuals may be seconded to other Member States.

The training programme shall aim to enhance the coordination, compatibility and complementarity between capacities referred to in Articles 9 and 11, and to improve the competence of experts referred to in points (d) and (f) of Article 8;

(b) set up and manage a training network open to training centres for civil protection and emergency management personnel as well as other relevant actors and institutions on prevention of, preparedness for and response to disasters.

The training network shall aim to:

- (i) enhance all phases of disaster management, taking into account adaptation to and mitigation of climate change;
 - (ii) create synergies among its members through exchange of experience and best practices, relevant research, lessons learnt, courses and workshops, exercises and pilot projects; and
 - (iii) develop guidance on Union and international civil protection training, including training on prevention of, preparedness for and response to disasters;
- (c) develop a strategic framework setting out the objectives and the role of exercises, a long-term comprehensive plan outlining exercise priorities, as well as set up and manage a programme of exercises;
- (d) set up and manage a programme of lessons learnt from civil protection actions conducted within the framework of the Union Mechanism including aspects from the entire disaster management cycle, in order to provide a broad basis for learning processes and knowledge development. The programme shall include:
- (i) monitoring, analysing and evaluating all the relevant civil protection actions within the Union Mechanism;

(ii) promoting implementation of lessons learnt in order to obtain an experience-based foundation for the development of activities within the disaster management cycle; and

(iii) developing methods and tools for gathering, analysing, promoting and implementing lessons learnt.

That programme shall also include, where appropriate, lessons learnt from interventions outside the Union with regard to exploiting links and synergies between assistance provided under the Union Mechanism and humanitarian response;

(e) develop guidance on knowledge dissemination and implementation of the different tasks referred to in points (a) to (d) at Member State level; and

(f) stimulate and encourage the introduction and use of relevant new technologies for the purpose of the Union Mechanism.

2. When carrying out the tasks set out in paragraph 1, the Commission shall take particular account of the need and interest of Member States facing disaster risks of a similar nature.

3. At the request of a Member State, a third country or the United Nations or its agencies, the Commission may deploy an expert team on site to provide advice on preparedness measures.

CHAPTER IV

RESPONSE

Article 14

Notification of disasters within the Union

1. In the event of a disaster within the Union, or of an imminent disaster, which causes or is capable of causing trans-boundary effects or affects or is capable of affecting other Member States, the Member State in which the disaster occurs or is likely to occur shall, without delay, notify the potentially affected Member States and, where the effects are potentially significant, the Commission.

The first subparagraph shall not apply where the obligation of notification has already been addressed under other Union legislation, under the Treaty establishing the European Atomic Energy Community or under existing international agreements.

2. In the event of a disaster within the Union, or of an imminent disaster, which is likely to result in a call for assistance from one or more Member States, the Member State in which the disaster occurs or is likely to occur shall, without delay, notify the Commission that a possible request for assistance through the ERCC can be expected, in order to enable the Commission, as appropriate, to inform the other Member States and to activate its competent services.

3. The notifications referred to in paragraphs 1 and 2 shall, as appropriate, be made through CECIS.

Article 15

Responding to disasters within the Union

1. When a disaster occurs within the Union, or is imminent, the affected Member State may request assistance through the ERCC. The request shall be as specific as possible.

2. In exceptional situations of increased risk a Member State may also request assistance in the form of temporary pre-positioning of response capacities.

3. Upon receiving a request for assistance, the Commission shall, as appropriate and without delay:

- (a) forward the request to the contact points of other Member States;
- (b) collect validated information on the situation, in conjunction with the affected Member State, and disseminate it to the Member States;
- (c) make recommendations, in consultation with the requesting Member State, for the provision of assistance through the Union Mechanism, based on the needs on the ground and any relevant pre-developed plans, as referred to in Article 10(1), invite Member States to deploy specific capacities and facilitate the coordination of the required assistance; and
- (d) take additional action to facilitate the coordination of the response.

4. Any Member State to which a request for assistance is addressed through the Union Mechanism shall promptly determine whether it is in a position to render the assistance required and inform the requesting Member State of its decision through the CECIS, indicating the scope, terms and, where applicable, costs of the assistance it could render. The ERCC shall keep the Member States informed.

5. The requesting Member State shall be responsible for directing assistance interventions. The authorities of the requesting Member State shall lay down guidelines and, if necessary, define the limits of the tasks entrusted to the modules or other response capacities. The details of the execution of those tasks shall be left to the person in charge appointed by the Member State rendering assistance. The requesting Member State may also request the deployment of an expert team to support its assessment, facilitate coordination on site between Member States' teams or provide technical advice.

6. The requesting Member State shall take the appropriate actions to facilitate host nation support for the incoming assistance.

7. The role of the Commission referred to in this Article shall not affect the Member States' competences and responsibility for their teams, modules and other support capacities,

including military capacities. In particular, the support offered by the Commission shall not entail command and control over the Member States' teams, modules and other support, which shall be deployed on a voluntary basis in accordance with the coordination at headquarters level and on site.

Article 16

Promoting consistency in the response to disasters outside the Union

1. When a disaster occurs outside the Union, or is imminent, the affected country may request assistance through the ERCC. The assistance may also be requested through or by the United Nations and its agencies, or a relevant international organisation.

2. Interventions under this Article may be conducted either as an autonomous assistance intervention or as a contribution to an intervention led by an international organisation. The Union coordination shall be fully integrated with the overall coordination provided by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), and shall respect its leading role.

3. The Commission shall support the consistency in the delivery of the assistance through the following actions:

- (a) maintaining a dialogue with the Member States' contact points in order to ensure an effective and coherent Union disaster response contribution through the Union Mechanism to the overall relief effort, in particular by:
 - (i) informing Member States without delay of the full requests for assistance;
 - (ii) supporting a common assessment of the situation and needs, providing technical advice and/or facilitating the coordination on site of assistance through the presence of a civil protection expert team on site;
 - (iii) sharing relevant assessments and analyses with all relevant actors;
 - (iv) providing an overview of assistance being offered by Member States and other actors;
 - (v) advising on the type of assistance required in order to ensure that the assistance provided is consistent with the needs assessments; and
 - (vi) assisting in overcoming any practical difficulties in the delivery of assistance in areas such as transit and customs;
- (b) immediately making recommendations, when possible in cooperation with the affected country, based on the needs on the ground and any relevant pre-developed plans, inviting Member States to deploy specific capacities and facilitating the coordination of the requested assistance;

- (c) liaising with the affected country on technical details, such as the precise needs for assistance, the acceptance of offers and the practical arrangements for the local reception and distribution of assistance;
- (d) liaising with or supporting OCHA, and cooperating with other relevant actors that contribute to the overall relief effort, in order to maximise synergies, seek complementarities and avoid duplication and gaps; and
- (e) liaising with all relevant actors, in particular in the closing phase of the assistance intervention under the Union Mechanism, to facilitate a smooth handover.

4. Without prejudice to the Commission's role, as defined in paragraph 3, and respecting the imperative for an immediate operational response through the Union Mechanism, the Commission shall upon activation of the Union Mechanism inform the European External Action Service to allow for consistency between the civil protection operation and the overall Union relations with the affected country. The Commission shall keep the Member States fully informed in accordance with paragraph 3.

5. On site, liaison shall be ensured as appropriate with the Union delegation for the latter to facilitate contacts with the government of the affected country. Where necessary, the Union delegation shall provide logistical support to the civil protection expert teams referred to in point (ii) of point (a) of paragraph 3.

6. Any Member State to which a request for assistance is addressed through the Union Mechanism shall promptly determine whether it is in a position to render the assistance required and inform the ERCC of its decision through the CECIS, indicating the scope and terms of any assistance it could render. The ERCC shall keep Member States informed.

7. The Union Mechanism may also be used to provide civil protection support to consular assistance to the citizens of the Union in disasters in third countries if requested by the consular authorities of the Member States concerned.

8. Pursuant to a request for assistance, the Commission may take additional necessary supporting and complementary action in order to ensure consistency in the delivery of the assistance.

9. Coordination through the Union Mechanism shall affect neither bilateral contacts between Member States and the affected country, nor cooperation between Member States and the United Nations and other relevant international organisations. Such bilateral contacts may also be used to contribute to the coordination through the Union Mechanism.

10. The role of the Commission referred to in this Article shall not affect the Member States' competences and responsibility for their teams, modules and other support, including

military capacities. In particular, the support offered by the Commission shall not entail command and control over Member States' teams, modules and other support, which shall be deployed on a voluntary basis in accordance with the coordination at headquarters level and on site.

11. Synergies shall be sought with other instruments of the Union, in particular with actions financed under Regulation (EC) No 1257/96. The Commission shall ensure coordination between the instruments and, where appropriate, ensure that Member States' civil protection actions contributing to a wider humanitarian response are as far as possible financed under this Decision.

12. Whenever the Union Mechanism is activated, the Member States providing disaster assistance shall keep the ERCC fully informed of their activities.

13. Member States' teams and modules participating on site in the intervention through the Union Mechanism shall liaise closely with the ERCC and the expert teams on site, as referred to in point (ii) of point (a) of paragraph 3.

Article 17

Support on site

1. The Commission may select, appoint and dispatch an expert team composed of experts provided by Member States:

- (a) in the event of a disaster outside the Union as referred to in Article 16(3);
- (b) in the event of a disaster within the Union as referred to in Article 15(5);
- (c) upon request for prevention expertise in accordance with Article 5(2); or
- (d) upon request for preparedness expertise in accordance with Article 13(3).

Experts from the Commission and from other services of the Union may be integrated in the team in order to support the team and facilitate liaison with the ERCC. Experts dispatched by OCHA or other international organisations may be integrated in the team in order to strengthen cooperation and facilitate joint assessments.

2. The procedure for the selection and appointment of experts shall be the following:

- (a) Member States shall nominate experts, under their responsibility, who can be deployed as members of expert teams;

(b) the Commission shall select the experts and the leader for those teams on the basis of their qualifications and experience, including the level of the Union Mechanism training undertaken, previous experience of missions under the Union Mechanism and other international relief work. The selection shall also be based on other criteria, including language skills, so as to ensure that the team as a whole has the available skills needed in the specific situation; and

(c) the Commission shall appoint experts/team leaders for the mission in agreement with their nominating Member State.

3. Where expert teams are dispatched, they shall facilitate coordination between Member States' intervention teams and liaise with the competent authorities of the requesting state as set out in Article 8(d). The ERCC shall maintain close contact with the expert teams and provide them with guidance and logistical support.

Article 18

Transport and equipment

1. In the event of a disaster, either within or outside the Union, the Commission may support Member States in obtaining access to equipment or transport resources by:

(a) providing and sharing information on equipment and transport resources that can be made available by Member States, with a view to facilitating the pooling of such equipment or transport resources;

(b) assisting Member States to identify, and facilitating their access to, transport resources that may be available from other sources, including the commercial market; or

(c) assisting Member States to identify equipment that may be available from other sources, including the commercial market.

2. The Commission may complement the transport resources provided by Member States by providing additional transport resources necessary for ensuring a rapid response to disasters.

CHAPTER V

FINANCIAL PROVISIONS

Article 19

Budgetary resources

1. The financial envelope for the implementation of the Union Mechanism for the period 2014 to 2020 shall be EUR 368 428 000 in current prices.

EUR 223 776 000 in current prices shall derive from Heading 3 "Security and Citizenship" of the multiannual financial framework and EUR 144 652 000 in current prices from Heading 4 "Global Europe".

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

2. Appropriations resulting from reimbursement made by the beneficiaries for disaster response actions shall constitute assigned revenue within the meaning of Article 18(2) of Regulation (EU, Euratom) No 966/2012.

3. The financial allocation referred to in paragraph 1 may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities, which are required for the management of the Union Mechanism and the achievement of its objectives.

Such expenditure may, in particular, cover studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the Union, as far as they are related to the general objectives of the Union Mechanism, expenses linked to IT networks focusing on information processing and exchange, including their interconnection with existing or future systems designed to promote cross-sectoral data exchange and related equipment, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the programme.

4. The financial envelope referred to in paragraph 1 shall be allocated, over the period 2014-2020, according to the percentages and principles set out in Annex I.

5. The Commission shall review the breakdown set out in Annex I in the light of the outcome of the interim evaluation referred to in point (a) of Article 34(2). The Commission shall be empowered to adopt, where necessary in light of the results of that evaluation, delegated acts in accordance with Article 30, to adjust each of the figures in Annex I by more than 8 percentage points and up to 16 percentage points. Those delegated acts shall be adopted by 30 June 2017.

6. Where, in case of a necessary revision of the budgetary resources available for response actions, imperative grounds of urgency so require, the Commission shall be empowered to adopt delegated acts to adjust each of the figures in Annex I by more than 8 percentage points and up to 16 percentage points, within the available budgetary allocations and in accordance with the procedure provided for in Article 31.

Article 20

General eligible actions

The following general actions shall be eligible for financial assistance to enhance prevention of, preparedness for and effective response to disasters:

(a) studies, surveys, modelling and scenario building to facilitate the sharing of knowledge, best practices and information;

- (b) training, exercises, workshops, exchange of staff and experts, creation of networks, demonstration projects and technology transfer;
- (c) monitoring, assessment and evaluation actions;
- (d) public information, education and awareness raising and associated dissemination actions, so as to involve citizens in preventing and minimising the effects of disasters in the Union and to help Union citizens to protect themselves more effectively and in a sustainable manner;
- (e) establishment and running of a programme of lessons learnt from interventions and exercises in the context of the Union Mechanism, including on areas relevant to prevention and preparedness; and
- (f) communication actions and measures to raise awareness of the civil protection work of the Member States and of the Union in the areas of prevention of, preparedness for and response to disasters.
- (g) planning response operations under the Union Mechanism, in accordance with Article 10;
- (h) supporting the preparedness activities described in Article 13;
- (i) developing the EERC, as referred to in Article 11, in accordance with paragraph 2 of this Article.
- (j) identifying gaps in the EERC in accordance with Article 12 and supporting Member States in addressing those gaps by co-financing new response capacities, up to a maximum of 20 % of the eligible costs, provided that:
 - (i) the need for new capacities is confirmed by risk assessments;
 - (ii) the gap identification process set out in Article 12 demonstrates that those capacities are not available to Member States;
 - (iii) those capacities are developed by Member States, either acting individually or through a consortium;
 - (iv) those capacities are committed to the voluntary pool for a minimum period of two years; and
 - (v) such co-financing of those capacities is cost-effective.

Article 21

Eligible prevention and preparedness actions

1. The following prevention and preparedness actions shall be eligible for financial assistance:

- (a) co-financing of projects, studies, workshops, surveys and similar actions and activities referred to in Article 5;
- (b) co-financing peer reviews, referred to in point (d) of Article 6 and point (j) of Article 8;
- (c) maintaining the functions provided by the ERCC, in accordance with point (a) of Article 8;
- (d) preparing for the mobilisation and dispatch of the expert teams referred to in point (d) of Article 8 and Article 17 and developing and maintaining a surge capacity through a network of trained experts of Member States, referred to in point (f) of Article 8;
- (e) establishing and maintaining the CECIS and tools to enable communication and sharing of information between the ERCC and the contact points of the Member States and of other participants in the context of the Union Mechanism;
- (f) contributing to the development of transnational detection, early warning and alert systems of European interest, in order to enable a rapid response as well as to promote the inter-linkage between national early warning and alert systems and their linkage to the ERCC and the CECIS. Those systems shall take into account and build upon existing and future information, monitoring or detection sources and systems;

- Where appropriate, preference shall be given to consortia of Member States cooperating on a common risk;
- (k) ensuring the availability of logistical support for the expert teams referred to in Article 17(1);
 - (l) facilitating the coordination of Member States' pre-positioning of disaster response capacities inside the Union in accordance with point (g) of Article 8; and
 - (m) supporting the provision of advice on prevention and preparedness measures through the deployment of an expert team on site, upon the request of a Member State, third country, the United Nations or its agencies, as referred to in Article 5(2) and Article 13(3).

2. The eligibility for financial assistance for the action referred to in point (i) of paragraph 1 shall be limited to:

- (a) costs at Union level of setting up and managing the EERC and the associated processes set out in Article 11;
- (b) costs of obligatory training courses, exercises and workshops necessary for the certification of Member States' response capacities for the purposes of the EERC ("certification costs"). The certification costs may consist of unit costs or lump sums determined per type of capacity, covering up to 100 % of the eligible costs;

- (c) non-recurrent costs necessary to upgrade Member States' response capacities from their purely national use to a state of readiness and availability that makes them deployable as part of the EERC, in accordance with the quality requirements of the voluntary pool and recommendations formulated in the certification process ("adaptation costs"). Those adaptation costs may include costs related to interoperability of modules and other response capacities, autonomy, self-sufficiency, transportability, packaging and similar costs, as well as the costs of forming multinational response capacities (for example workshops, trainings, development of common methodologies, standards, procedures and similar activities), provided that those costs specifically relate to the capacities' participation in the voluntary pool. They shall not cover the costs of the equipment or human resources necessary to initially set-up the response capacities or on-going maintenance or running costs. Those adaptation costs may consist of unit costs or lump sums determined per type of capacity, covering up to 100 % of the eligible costs, provided this does not exceed 30 % of the average cost of developing the capacity; and
- (d) costs of establishing and managing framework contracts, framework partnership agreements or similar arrangements to address temporary shortcomings in extraordinary disasters, taking into account a multi-hazard approach.

The funding under point (d) of this paragraph:

- (i) may cover the costs or fees necessary to design, prepare, negotiate, conclude and manage the contracts or arrangements as well as the costs of developing standard operating procedures and exercises to ensure the effective use of assets. Such funding may also cover a maximum of 40 % of the costs of ensuring rapid access to those assets;
- (ii) shall not cover the costs of purchasing or developing new response capacities, nor the cost of operating these additional capacities in a disaster situation. The costs of operating those additional capacities in a disaster situation shall be borne by the Member States requesting the assistance;
- (iii) shall not exceed 10 % of the financial envelope set out in Article 19(1). In the event that the 10 % ceiling is reached before the end of the programming period, and when required to ensure the appropriate functioning of the Union Mechanism, that 10 % ceiling may, by means of implementing acts, be exceeded by up to 5 percentage points. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Article 22

Eligible response actions

The following response actions shall be eligible for financial assistance:

- (a) dispatching expert teams referred to in Article 17(1) together with logistical support and dispatching experts referred to in points (d) and (e) of Article 8;
- (b) in the event of a disaster, supporting Member States in obtaining access to equipment and transport resources as specified in Article 23; and
- (c) pursuant to a request for assistance, taking additional necessary supporting and complementary action in order to facilitate the coordination of response in the most effective way.

Article 23

Eligible actions linked to equipment and transport resources

1. The following actions shall be eligible for financial assistance in order to allow access to equipment and transport resources under the Union Mechanism:

- (a) providing and sharing information on equipment and transport resources that Member States decide to make available, with a view to facilitating the pooling of such equipment or transport resources;
- (b) assisting Member States to identify, and facilitating their access to, transport resources that may be available from other sources, including the commercial market;
- (c) assisting Member States to identify equipment that may be available from other sources, including the commercial market; and
- (d) financing transport resources necessary for ensuring a rapid response to disasters. Such actions shall be eligible for financial support only if the following criteria are met:
- (i) a request for assistance has been made under the Union Mechanism in accordance with Articles 15 and 16;
- (ii) the additional transport resources are necessary for ensuring the effectiveness of disaster response under the Union Mechanism;
- (iii) the assistance corresponds to the needs identified by the ERCC and is delivered in accordance with the recommendations given by the ERCC on the technical specifications, quality, timing and modalities for delivery;

(iv) the assistance has been accepted by a requesting country, directly or through the United Nations or its agencies, or a relevant international organisation, under the Union Mechanism; and

(v) the assistance complements, for disasters in third countries, any overall Union humanitarian response.

2. The amount of Union financial support for transport resources shall not exceed 55 % of the total eligible cost.

3. The Union financial support for transport may, in addition, cover a maximum of 85 % of the total eligible cost in the following situations:

(a) the costs relate to the transport of the capacities pre-committed to the voluntary pool in accordance with Article 11; or

(b) the assistance is necessary to address a critical need and the assistance is not, or not sufficiently, available in the voluntary pool.

4. The Union financial support for transport resources may, in addition, cover a maximum of 100 % of the total eligible cost described under points (i), (ii) and (iii) if this is necessary to make the pooling of Member States' assistance operationally effective and if the costs relate to one of the following:

(i) the short-term rental of warehousing capacity to temporarily store the assistance from Member States with a view to facilitating their coordinated transport;

(ii) the repackaging of Member States' assistance to make maximum use of available transport capacities or to meet specific operational requirements; or

(iii) the local transport of pooled assistance with a view to ensuring a coordinated delivery at the final destination in the requesting country.

The Union financial support under this paragraph shall not exceed EUR 75 000 in current prices for each activation of the Union Mechanism. In exceptional cases, that ceiling may, by means of implementing acts, be exceeded. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

5. In case of pooling of transport operations involving several Member States, a Member State may take the lead in requesting Union financial support for the entire operation.

6. When a Member State requests the Commission to contract transport services, the Commission shall request partial reimbursement of the costs according to the funding rates set out in paragraphs 2, 3 and 4.

7. The following costs shall be eligible for Union financial support for transport resources under this Article: all costs relating to the movement of transport resources, including the costs of all services, fees, logistical and handling costs, fuel and possible accommodation costs as well as other indirect costs such as taxes, duties in general and transit costs.

Article 24

Beneficiaries

Grants awarded under this Decision may be awarded to legal persons, whether governed by private or public law.

Article 25

Types of financial intervention and implementing procedures

1. The Commission shall implement the Union's financial assistance in accordance with Regulation (EU, Euratom) No 966/2012.

2. Financial assistance under this Decision may take any of the forms provided by Regulation (EU, Euratom) No 966/2012, in particular grants, reimbursement of expenses, public procurement or contributions to trust funds.

3. In order to implement this Decision, the Commission shall adopt annual work programmes, by means of implementing acts, except for actions falling under the disaster response of Chapter IV, which it is not possible to provide for in advance. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2). The annual work programmes shall set out the objectives pursued, the expected results, the method of implementation and their total amount. They shall also contain a description of actions to be financed, an indication of the amount allocated to each action and an indicative implementation timetable. With regard to the financial assistance referred to in Article 28(2), the annual work programmes shall describe the actions foreseen for countries referred to therein.

Article 26

Complementarity and consistency of Union action

1. Actions receiving financial assistance under this Decision shall not receive assistance from other Union financial instruments.

The Commission shall ensure that the applicants for financial assistance under this Decision and beneficiaries of such assistance provide it with information about financial assistance received from other sources, including the general budget of the Union, and about on-going applications for such assistance.

2. Synergies and complementarity shall be sought with other instruments of the Union. In the case of a response to humanitarian crises in third countries the Commission shall ensure the complementarity and coherence of actions financed under this Decision and actions financed under Regulation (EC) No 1257/96.

3. When assistance under the Union Mechanism contributes to a Union humanitarian response, particularly in complex emergencies, actions receiving financial assistance under this Decision shall be based on identified needs and shall be consistent with the humanitarian principles as well as the principles on the use of civil protection and military resources as set out in the European Consensus on Humanitarian Aid.

Article 27

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 Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors, who have received Union funds under this Decision.

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 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁾ and Council Regulation (Euratom, EC) No 2185/96⁽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 under this Decision.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions, resulting from the implementation of this Decision shall

⁽¹⁾ 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⁾ 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).

contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

CHAPTER VI

GENERAL PROVISIONS

Article 28

Third countries and international organisations

1. The Union Mechanism shall be open to the participation of:

(a) European Free Trade Association (EFTA) countries which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA Agreement, and other European countries when agreements and procedures so provide;

(b) acceding countries, candidate countries and potential candidates in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective Framework Agreements and Association Council Decisions, or similar arrangements;

2. Financial assistance referred to in Article 20 and points (a), (b), (f) and (h) of Article 21(1) may also be granted to candidate countries and potential candidates not participating in the Union Mechanism, as well as to countries that are part of the ENP, to the extent that that financial assistance complements funding available under a future Union legislative act relating to the establishment of the Instrument for Pre-Accession Assistance (IPA II) and a future Union legislative act relating to the establishment of a European Neighbourhood Instrument.

3. International or regional organisations may cooperate in activities under the Union Mechanism where relevant bilateral or multilateral agreements between those organisations and the Union so allow.

Article 29

Competent authorities

For the purposes of applying this Decision, Member States shall appoint the competent authorities and inform the Commission accordingly.

Article 30

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 19(5) and (6) shall be conferred on the Commission until 31 December 2020.

3. The delegation of power referred to in Article 19(5) and (6) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 19(5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 31

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 30(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

Article 32

Implementing acts

1. The Commission shall adopt implementing acts on the following matters:

- (a) the interaction of the ERCC with Member States' contact points, as provided for in point (b) of Article 8, Article 15(3) and point (a) of Article 16(3); and the operational procedures for the response to disasters within the Union, as provided for in Article 15, as well as outside the Union, as provided for in Article 16, including identification of relevant international organisations;
- (b) the components of CECIS as well as the organisation of information sharing through CECIS, as provided for in point (b) of Article 8;
- (c) the process for deploying expert teams, as provided for in Article 17;
- (d) the identification of modules, other response capacities and experts as provided for in Article 9(1);

- (e) the operational requirements for the functioning and interoperability of modules, as provided for in Article 9(2), including their tasks, capacities, main components, self-sufficiency and deployment;
- (f) the capacity goals, the quality and interoperability requirements and the certification and registration procedure necessary for the functioning of the EERC, as provided for in Article 11, as well as the financial arrangements, as provided for in Article 21(2);
- (g) identifying and filling gaps in the EERC, as provided for in Article 12;
- (h) the organisation of the training programme, exercise framework and lessons learnt programme, as provided for in Article 13; and
- (i) the organisation of support for the transport of assistance, as provided for in Articles 18 and 23.

2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Article 33

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 34

Evaluation

1. Actions receiving financial assistance shall be monitored regularly in order to follow their implementation.

2. The Commission shall evaluate the application of this Decision and submit to the European Parliament and to the Council:

- (a) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of this Decision by no later than 30 June 2017;
- (b) a communication on the continued implementation of this Decision by no later than 31 December 2018; and
- (c) an ex-post evaluation report by no later than 31 December 2021.

The interim evaluation report and the communication as referred to in points (a) and (b) respectively shall be accompanied, if appropriate, by proposals for amendments to this Decision.

CHAPTER VII

FINAL PROVISIONS

*Article 35***Transitional provisions**

1. Actions which are initiated before 1 January 2014 on the basis of Decision 2007/162/EC, Euratom shall continue to be administered, where relevant, in conformity with that Decision.
2. Member States shall ensure at national level a smooth transition between the actions carried out in the context of the Financial Instrument and those to be implemented under the provisions set out in this Decision.

*Article 36***Repeal**

Decision 2007/162/EC, Euratom and Decision 2007/779/EC, Euratom are repealed. References to the repealed Decisions shall be construed as references to this Decision and shall be read in accordance with the correlation table in Annex II to this Decision.

*Article 37***Entry into force**

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*. It shall apply from 1 January 2014.

*Article 38***Addressees**

This Decision is addressed to the Member States in accordance with the Treaties.

Done at Brussels, 17 December 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. LINKEVIČIUS

ANNEX I

Percentages for allocation of the financial envelope for the implementation of the Union Mechanism referred to in Article 19(1)

Prevention: 20 % +/- 8 percentage points

Preparedness: 50 % +/- 8 percentage points

Response: 30 % +/- 8 percentage points

Principles

When implementing this Decision, the Commission shall give priority to actions for which this Decision sets a deadline within the period leading to the expiry of that deadline, with the objective of meeting the deadline in question.

ANNEX II

Correlation table

Council Decision 2007/162 EC, Euratom	Council Decision 2007/779 EC, Euratom	This Decision
Article 1 (1)		—
Article 1 (2)		Article 1 (4)
Article 1 (3)		—
Article 1 (4)	Article 1(2)	Article 2 (2)
	Article 1 (1)	—
	Article 1 (2), first subparagraph	Article 1 (2)
	Article 1 (2), second subparagraph	Article 1 (5)
Article 2 (1)		Article 2 (1), point (a)
Article 2 (2)		Article 2 (1), point (b)
Article 2 (3)		Article 1 (6)
	Article 2, point (1)	—
	Article 2, point (2)	Article 13 (1), point (a)
	Article 2, point (3)	Article 20, point (b)
	Article 2, point (4)	Article 8, point (d)
	Article 2, point (5)	Article 7 and Article 8, point (a)
	Article 2, point (6)	Article 8, point (b)
	Article 2, point (7)	Article 8, point (c)
	Article 2, point (8)	Article 18 (1)
	Article 2, point (9)	Article 18 (2)
	Article 2, point (10)	Article 16 (7)
	Article 2, point (11)	—
Article 3	Article 3	Article 4
Article 4 (1)		Article 20 and Article 21
Article 4 (2), point (a)		Article 22, point (a)
Article 4 (2), point (b)		Article 22, point (b), and Article 23 (1), points (a), (b) and (c)
Article 4 (2), point (c)		Article 23 (1), point (d)
Article 4 (3)		Article 23 (2) and (4)
Article 4 (4)		Article 32 (1), point (i)
	Article 4(1)	Article 9 (1)

Council Decision 2007/162 EC, Euratom	Council Decision 2007/779 EC, Euratom	This Decision
	Article 4 (2)	Article 9 (3)
	Article 4 (3)	Article 9 (1) and (2)
	Article 4 (4)	Article 9 (4)
	Article 4 (5)	Article 9 (5)
	Article 4 (6)	Article 9 (6)
	Article 4 (7)	Article 9 (9)
	Article 4 (8)	Article 9 (7)
Article 5		Article 24
	Article 5, point (1)	Article 8, point (a)
	Article 5, point (2)	Article 8, point (b)
	Article 5, point (3)	Article 8, point (c)
	Article 5, point (4)	Article 8, point (d)
	Article 5, point (5)	Article 13 (1), point (a)
	Article 5, point (6)	—
	Article 5, point (7)	Article 13 (1), point (d)
	Article 5, point (8)	Article 13 (1), point (f)
	Article 5, point (9)	Article 18
	Article 5, point (10)	Article 8, point (e)
	Article 5, point (11)	Article 8, point (g)
Article 6 (1)		Article 25 (1)
Article 6 (2)		Article 25 (2)
Article 6 (3)		Article 25 (3), third and fourth sentences
Article 6 (4)		—
Article 6 (5)		Article 25 (3), first and second sentences
Article 6 (6)		—
	Article 6	Article 14
Article 7		Article 28 (1)
	Article 7 (1)	Article 15 (1)
	Article 7 (2)	Article 15 (3)
	Article 7 (2), point (a)	Article 15 (3), point (a)
	Article 7 (2), point (c)	Article 15 (3), point (b)
	Article 7 (2), point (b)	Article 15 (3), point (c)
	Article 7 (3), first and third sentences	Article 15 (4) and Article 16 (6)

Council Decision 2007/162 EC, Euratom	Council Decision 2007/779 EC, Euratom	This Decision
Article 8	Article 7 (4)	Article 15 (5)
	Article 7 (5)	—
	Article 7 (6)	Article 17 (3), first sentence
		Article 26
	Article 8 (1) first subparagraph	Article 16 (1)
	Article 8 (1), second subparagraph	Article 16 (2), first sentence
	Article 8 (1), third subparagraph	—
	Article 8 (1), fourth subparagraph	—
	Article 8 (2)	Article 16 (4)
	Article 8 (3)	—
	Article 8 (4), point (a)	Article 16 (3), point (a)
	Article 8 (4), point (b)	Article 16 (3), point (c)
	Article 8 (4), point (c)	Article 16 (3), point (d)
	Article 8 (4), point (d)	Article 16 (3), point (e)
	Article 8 (5)	Article 16 (8)
	Article 8 (6), first subparagraph	Article 17 (1) and Article 17 (2), point (b)
	Article 8 (6), second subparagraph	Article 17 (3), second sentence
	Article 8 (7), first subparagraph	—
	Article 8 (7), second subparagraph	Article 16 (2), second sentence
	Article 8 (7), third subparagraph	Article 16 (9)
Article 8 (7), fourth subparagraph	Article 16 (11)	
Article 8 (7), fifth subparagraph	—	
Article 8 (8)	Article 16 (10)	
Article 8 (9), point (a)	Article 16 (12)	
Article 8 (9), point (b)	Article 16 (13)	
Article 9		Article 16 (2)
	Article 9	Article 18
Article 10		Article 19 (3)

Council Decision 2007/162 EC, Euratom	Council Decision 2007/779 EC, Euratom	This Decision
	Article 10	Article 28
Article 11		—
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Article 12 (1)		Article 27 (1)
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Article 12 (4)		—
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	Article 12 (1)	Article 32 (1), point (e)
	Article 12 (2)	Article 32 (1), point (a)
	Article 12 (3)	Article 32 (1), point (b)
	Article 12 (4)	Article 32 (1), point (c)
	Article 12 (5)	Article 32 (1), point (h)
	Article 12 (6)	Article 32 (1), point (d)
	Article 12 (7)	—
	Article 12 (8)	—
	Article 12 (9)	Article 32 (1), second part of point (a)
Article 13	Article 13	Article 33
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Article 15	Article 14	Article 34
	Article 15	Article 36
Article 16		Article 37, second sentence
Article 17	Article 16	Article 38

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EURATOM) No 1314/2013

of 16 December 2013

on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework Programme for Research and Innovation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the first paragraph of Article 7 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) One of the aims of the European Atomic Energy Community (the 'Community') is to contribute to the raising of the standard of living in the Member States including by promoting and facilitating nuclear research in the Member States and complementing it by carrying out a Community research and training programme.
- (2) Nuclear research can contribute to social and economic prosperity and environmental sustainability by improving nuclear safety, security and radiation protection. Equally important is the potential contribution of nuclear research to the long term decarbonisation of the energy system in a safe, efficient and secure way.
- (3) By supporting nuclear research, the Research and Training Programme of the Community for the period from 1 January 2014 to 31 December 2018 (the 'Euratom Programme') will contribute to achieving the

objectives of the Horizon 2020 Framework Programme for Research and Innovation (the 'Horizon 2020 Framework Programme') established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽²⁾ and will facilitate implementation of the Europe 2020 strategy and the creation and operation of the European Research Area.

- (4) Notwithstanding the potential impact of nuclear energy on energy supply and economic development, severe nuclear accidents may endanger human health. Therefore, nuclear safety and, where appropriate, security aspects dealt with by the Joint Research Centre (the 'JRC') should be given the greatest possible attention in the Euratom Programme.
- (5) The European Strategic Energy Technology Plan (the 'SET Plan'), set out in the conclusions of the Council meeting of 28 February 2008 in Brussels, is accelerating the development of a portfolio of low carbon technologies. The European Council agreed, at its meeting on 4 February 2011, that the Union and its Member States would promote investment in renewables, and safe and sustainable low carbon technologies and would focus on implementing the technology priorities established in the SET Plan. Each Member State remains free to choose the type of technologies that it would support.
- (6) As all Member States have nuclear installations or make use of radioactive materials particularly for medical purposes, the Council has recognised, in the conclusions of its meeting in Brussels on 1 and 2 December 2008, the continuing need for skills in the nuclear field, in particular through appropriate education and training linked with research and coordinated at Community level.

⁽¹⁾ OJ C 181, 21.6.2012, p. 111.

⁽²⁾ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 17 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (See page 104 of this Official Journal).

- (7) While it is for each Member State to choose whether or not to make use of nuclear power, it is also acknowledged that nuclear energy plays different roles in different Member States.
- (8) By signing the Agreement on the Establishment of the ITER International Fusion Energy Organisation for the Joint Implementation of the ITER Project⁽¹⁾, the Community has undertaken to participate in the construction of the ITER Project (ITER) and its future exploitation. The Community contribution is managed through the 'European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy)', established by Council Decision 2007/198/Euratom⁽²⁾. The activities of that joint undertaking, including ITER, are to be regulated by a separate legislative act.
- (9) For fusion to become a credible option for commercial energy production, it is, firstly, necessary to successfully complete, in a timely manner, the construction of ITER and start its operation. Secondly it is necessary to establish an ambitious, yet realistic roadmap towards the production of electricity by 2050. Reaching those goals requires the European fusion programme to be redirected towards a joint programme of activities implementing this roadmap. In order to secure the achievements of on-going fusion research activities, as well as the long-term commitment of, and collaboration between, the fusion stakeholders, continuity of the Community's support should be ensured. A stronger focus should be placed primarily on the activities in support of ITER but also on the developments towards the demonstration reactor, including the stronger involvement, as appropriate, of the private sector. Such rationalisation and refocusing should be achieved without jeopardising the European leadership of the fusion scientific community.
- (10) The JRC should continue to provide independent customer-driven scientific and technological support for the formulation, development, implementation and monitoring of Community policies, in particular in the field of nuclear safety and security research and training. To optimize human resources and ensure no duplication of research in the Union, any new activity carried out by the JRC should be analysed to check its consistency with existing activities in the Member States. The security aspects of the Horizon 2020 Framework Programme should be limited to the direct actions of the JRC.
- (11) The JRC should continue to generate additional resources through competitive activities, including participation in indirect actions of the Euratom Programme, third party work and, to a lesser extent, the exploitation of intellectual property.
- (12) In the interest of all its Member States, the role of the Union is to develop a framework to support joint cutting-edge research, knowledge creation and knowledge preservation on nuclear fission technologies, with special emphasis on safety, security, radiation protection and non-proliferation. That requires independent scientific evidence, to which the JRC can make a key contribution. That has been recognised in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, dated 6 October 2010, entitled 'Europe 2020 Flagship Initiative Innovation Union', in which the Commission stated its intention to strengthen scientific evidence for policy making through the JRC. The JRC proposes to respond to that challenge by focusing its nuclear safety and security research on the Union's policy priorities.
- (13) With the aim of deepening the relationship between science and society and reinforcing public confidence in science, the Euratom Programme should favour an informed engagement of citizens and civil society on research and innovation matters by promoting science education, by making scientific knowledge more accessible, by developing responsible research and innovation agendas that meet the concerns and expectations of citizens and civil society, and by facilitating their participation in activities under the Euratom Programme.
- (14) The implementation of the Euratom Programme should respond to the evolving opportunities and needs relating to science and technology, industry, policies and society. As such, the agendas should be set in close liaison with stakeholders from all sectors concerned, and sufficient flexibility should be allowed for new developments. External advice might be sought during the Euratom Programme, also making use of relevant structures such as European Technology Platforms.
- (15) The outcomes of the debates that took place at the Symposium on 'Benefits and Limitations of Nuclear Fission Research for a Low Carbon Economy' prepared by an interdisciplinary study involving, among others, experts from the fields of energy, economics and social sciences, co-organised by the Commission and the European Economic and Social Committee in Brussels on 26 and 27 February 2013, recognised the need to continue nuclear research at the European level.

⁽¹⁾ OJ L 358, 16.12.2006, p. 62.

⁽²⁾ Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58).

- (16) The Euratom Programme should contribute to the attractiveness of the research profession in the Union. Adequate attention should be paid to the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers ⁽¹⁾, together with other relevant reference frameworks defined in the context of the European Research Area, while respecting their voluntary nature.
- (17) The activities developed under the Euratom Programme should aim at promoting equality between women and men in research and innovation, by addressing in particular the underlying causes of gender imbalance, by exploiting the full potential of both female and male researchers, and by integrating the gender dimension into the content of projects in order to improve the quality of research and stimulate innovation. Activities should also aim at the implementation of the principles relating to the equality between women and men as laid down in Articles 2 and 3 of the Treaty on European Union and Article 8 of the Treaty on the Functioning of the European Union (TFEU).
- (18) Research and innovation activities supported by the Euratom Programme should respect fundamental ethical principles. The opinions on energy matters of the European Group on Ethics in Science and New Technologies should be taken into account as appropriate. Research activities should also take into account Article 13 of the TFEU and reduce the use of animals in research and testing, with a view to ultimately replacing animal use. All activities should be carried out ensuring a high level of human health protection.
- (19) A greater impact should also be achieved by combining the Euratom Programme and private sector funds within public-private partnerships in key areas where research and innovation could contribute to the Union's wider competitiveness goals. Particular attention should be given to the involvement of small and medium-sized enterprises.
- (20) The Euratom Programme should promote cooperation, in particular in the field of safety, with third countries based on common interest and mutual benefit notably to promote continuous improvement of nuclear safety.
- (21) In order to maintain a level playing field for all undertakings that are active in the internal market, funding provided by the Euratom Programme should be designed in accordance with state aid rules so as to ensure the effectiveness of public spending and prevent market distortions such as crowding-out of private funding, creating ineffective market structures or preserving inefficient firms.
- (22) The need for a new approach to control and risk management in Union research funding was recognised by the European Council in its conclusions of 4 February 2011, which called for a new balance between trust and control and between risk-taking and risk avoidance. The European Parliament, in its Resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes ⁽²⁾, called for a pragmatic shift towards administrative and financial simplification and stated that the management of Union research funding should be more trust-based and risk-tolerant towards participants.
- (23) 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, penalties. A revised control strategy, shifting focus from minimisation of error rates towards risk-based control and fraud detection, should reduce the control burden for participants.
- (24) It is important to ensure sound financial management of the Euratom Programme and its implementation in the most effective and user-friendly manner possible, while also ensuring legal certainty and its accessibility to all participants. It is necessary to ensure compliance with the relevant provisions of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (the "Financial Regulation") ⁽³⁾ and with the requirements of simplification and better regulation.
- (25) To ensure the most efficient implementation possible, and easy access for all participants through simplified procedures, and to achieve a coherent, comprehensive and transparent framework for participants, participation in the Euratom Programme and dissemination of research results should be subject to the rules applicable to the Horizon 2020 Framework Programme, as set out in Regulation (EU) No 1291/2013 of the European Parliament and of the Council with certain adaptations or exceptions.

⁽¹⁾ Commission Recommendation of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers (OJ L 75, 22.3.2005, p. 67).

⁽²⁾ OJ C 74E, 13.3.2012, p. 34.

⁽³⁾ 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).

- (26) It is important to continue to facilitate the exploitation of intellectual property developed by participants while protecting the legitimate interests of other participants and the Community in accordance with Chapter 2 of the Treaty.
- (27) The participant guarantee funds, managed by the Commission and established pursuant to Council Regulation (Euratom) No 1908/2006⁽¹⁾ and Council Regulation (Euratom) No 139/2012⁽²⁾, have proved to be an important safeguard mechanism which mitigates the risks associated with the amounts due and not reimbursed by defaulting participants. The participant guarantee fund established pursuant to Regulation (EU) No 1290/2013 of the European Parliament and of the Council⁽³⁾ should also cover actions under Regulation (Euratom) No 1908/2006, Regulation (Euratom) No 139/2012 and this Regulation.
- (28) In order to ensure uniform conditions for the implementation of the indirect actions under the Euratom Programme, implementing powers should be conferred on the Commission to adopt work programmes and the decision on the approval of the funding of indirect actions. Those implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁴⁾.
- (29) Achieving the objectives of the Euratom Programme in relevant areas requires support for cross-cutting activities, both within the Euratom Programme and jointly with the activities of the Horizon 2020 Framework Programme.
- (30) Effective performance management, including evaluation and monitoring, requires development of specific performance indicators that can be measured over time,
- are both realistic and reflect the logic of the intervention and are relevant to the appropriate hierarchy of objectives and activities. Appropriate coordination mechanisms should be put in place between the implementation and monitoring of the Euratom Programme, on the one hand, and the monitoring of progress, achievements and functioning of the European Research Area, on the other.
- (31) The Board of Governors of the JRC, set up by Commission Decision 96/282/Euratom⁽⁵⁾, has been consulted on the scientific and technological content of the direct actions of the JRC.
- (32) For reasons of legal certainty, the Council Decision of 16 December 1980 setting up the Consultative Committee for the Fusion Programme⁽⁶⁾, Council Decision 84/338/Euratom, ECSC, EEC⁽⁷⁾, Council Decision 2006/970/Euratom⁽⁸⁾, Council Decision 2006/976/Euratom⁽⁹⁾, Council Decision 2006/977/Euratom⁽¹⁰⁾, Regulation (Euratom) No 1908/2006, Council Decision 2012/93/Euratom⁽¹¹⁾, Regulation (Euratom) No 139/2012, Council Decision 2012/94/Euratom⁽¹²⁾ and Council Decision 2012/95/Euratom⁽¹³⁾ should be repealed.
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- ⁽¹⁾ Council Regulation (Euratom) No 1908/2006 of 19 December 2006 laying down the rules for the participation of undertakings, research centres and universities in action under the Seventh Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2007 to 2011) (OJ L 400, 30.12.2006, p. 1).
- ⁽²⁾ Council Regulation (Euratom) No 139/2012 of 19 December 2011 laying down the rules for the participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012-2013) (OJ L 47, 18.2.2012, p. 1).
- ⁽³⁾ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 17 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 (See page 81 of this Official Journal).
- ⁽⁴⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).
- ⁽⁵⁾ Commission Decision 96/282/Euratom of 10 April 1996 on the reorganization of the Joint Research Centre (OJ L 107, 30.4.1996, p. 12).
- ⁽⁶⁾ Council document 4151/81 (ATO 103) of 8.1.1981, not published in the Official Journal.
- ⁽⁷⁾ Council Decision 84/338/Euratom, ECSC, EEC of 29 June 1984 dealing with structures and procedures for the management and coordination of Community research, development and demonstration activities (OJ L 177, 4.7.1984, p. 25).
- ⁽⁸⁾ Council Decision 2006/970/Euratom of 18 December 2006 concerning the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011) (OJ L 400, 30.12.2006, p. 60).
- ⁽⁹⁾ Council Decision 2006/976/Euratom of 19 December 2006 concerning the Specific Programme implementing the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011) (OJ L 400, 30.12.2006, p. 404).
- ⁽¹⁰⁾ Council Decision 2006/977/Euratom of 19 December 2006 concerning the Specific Programme to be carried out by means of direct actions by the Joint Research Centre implementing the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011) (OJ L 400, 30.12.2006, p. 434).
- ⁽¹¹⁾ Council Decision 2012/93/Euratom of 19 December 2011 concerning the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012 to 2013) (OJ L 47, 18.2.2012, p. 25).
- ⁽¹²⁾ Council Decision 2012/94/Euratom of 19 December 2011 concerning the specific programme, to be carried out by means of indirect actions, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (OJ L 47, 18.2.2012, p. 33).
- ⁽¹³⁾ Council Decision 2012/95/Euratom of 19 December 2011 concerning the specific programme, to be carried out by means of direct actions by the Joint Research Centre, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (OJ L 47, 18.2.2012, p. 40).

(33) The Commission has consulted the Euratom Scientific and Technical Committee,

Article 3

Objectives

HAS ADOPTED THIS REGULATION:

TITLE I

ESTABLISHMENT

Article 1

Establishment

This Regulation establishes the Research and Training Programme of the European Atomic Energy Community for the period from 1 January 2014 to 31 December 2018 (the 'Euratom Programme'), and lays down the rules for participation in that Programme, including the participation in programmes of funding bodies managing the funds granted in accordance with this Regulation and in activities conducted jointly under this Regulation and under the Horizon 2020 Framework Programme for Research and Innovation (the 'Horizon 2020 Framework Programme') established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'research and innovation activities' means the whole spectrum of activities of research, technological development, demonstration and innovation, including the promotion of cooperation with third countries and international organisations, dissemination and optimisation of results and stimulation of the training and mobility of researchers in the European Atomic Energy Community (hereinafter 'the Community');
- (b) 'direct actions' means research and innovation activities undertaken by the Commission through its Joint Research Centre (the 'JRC');
- (c) 'indirect actions' means research and innovation activities to which the Union or the Community (hereinafter the 'Union') provides financial support and which are undertaken by participants;
- (d) 'public-private partnership' means a partnership where private sector partners, the Community and, where appropriate, other partners, such as public sector bodies, commit to jointly support the development and implementation of a research and innovation programme or activities;
- (e) 'public-public partnership' means a partnership where public sector bodies or bodies with a public service mission at local, regional, national or international level commit with the Community to jointly support the development and implementation of a research and innovation programme or activities.

1. The general objective of the Euratom Programme is to pursue nuclear research and training activities with an emphasis on continuous improvement of nuclear safety, security and radiation protection, notably to potentially contribute to the long-term decarbonisation of the energy system in a safe, efficient and secure way. The general objective shall be implemented through the activities specified in Annex I in the form of direct and indirect actions which pursue the specific objectives set out in paragraphs 2 and 3 of this Article.

2. The Euratom Programme indirect actions shall have the following specific objectives:

- (a) supporting safety of nuclear systems;
- (b) contributing to the development of safe, longer term solutions for the management of ultimate nuclear waste, including final geological disposal as well as partitioning and transmutation;
- (c) supporting the development and sustainability of nuclear expertise and excellence in the Union;
- (d) supporting radiation protection and development of medical applications of radiation, including, inter alia, the secure and safe supply and use of radioisotopes;
- (e) moving towards demonstration of feasibility of fusion as a power source by exploiting existing and future fusion facilities;
- (f) laying the foundations for future fusion power plants by developing materials, technologies and conceptual design;
- (g) promoting innovation and industrial competitiveness;
- (h) ensuring availability and use of research infrastructures of pan-European relevance.

3. The Euratom Programme direct actions shall have the following specific objectives:

- (a) improving nuclear safety including: nuclear reactor and fuel safety, waste management, including final geological disposal as well as partitioning and transmutation; decommissioning, and emergency preparedness;
- (b) improving nuclear security including: nuclear safeguards, non-proliferation, combating illicit trafficking, and nuclear forensics;

- (c) increasing excellence in the nuclear science base for standardisation;
- (d) fostering knowledge management, education and training;
- (e) supporting the policy of the Union on nuclear safety and security.

Any new attribution of activity to the JRC shall be analysed by the Board of Governors of the JRC to check its consistency with existing activities in the Member States.

4. The Euratom Programme shall be implemented in such a way as to ensure that the priorities and activities supported are relevant to changing needs and take account of the evolving nature of science, technology, innovation, policy making, markets and society, with the aim of optimizing human and financial resources, and to avoid duplication on nuclear research and development in the Union.

5. Within the specific objectives referred to in paragraphs 2 and 3, account may be taken of new and unforeseen needs that arise during the period of implementation of the Euratom Programme. This may, if duly justified, include responses to emerging opportunities, crises and threats, to needs relating to the development of new Union policies, and to the piloting of actions foreseen for support under future programmes.

Article 4

Budget

1. The financial envelope for the implementation of the Euratom Programme shall be EUR 1 603 329 000. That amount shall be distributed as follows:

- (a) indirect actions for the fusion research and development programme, EUR 728 232 000;
- (b) indirect actions for nuclear fission, safety and radiation protection, EUR 315 535 000;
- (c) direct actions, EUR 559 562 000.

For the implementation of indirect actions of the Euratom Programme, the Commission's administrative expenditure shall reach up to 7 % on average during the duration of the Euratom Programme and no more than 6 % in 2018.

2. The financial envelope of the Euratom Programme may cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of that Programme and the achievement of its objectives, in particular studies and meetings of experts, as far as they relate to the general objectives of this Regulation, and expenses linked to information technology networks focusing

on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the Euratom Programme. The expenses for continuous and repetitive actions such as control, audit and IT networks will be covered within the limits of the Commission's administrative expenditure specified in paragraph 1.

3. Where necessary and duly justified, appropriations may be entered in the budget beyond 2018 to cover technical and administrative assistance expenses, in order to enable the management of actions not yet completed by 31 December 2018.

4. Where the direct actions contribute to initiatives established by entities entrusted by the Commission with implementation tasks in accordance with Article 6(2) and Article 15, such contribution shall not be considered as part of the financial contribution allocated to those initiatives.

5. Budgetary commitments may be divided into annual instalments. Each year the Commission shall commit the annual instalments taking into account the progress of the actions receiving financial support, the estimated needs and the budget available.

Article 5

Association of third countries

1. The Euratom Programme shall be open to the association of:

(a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and decisions of association councils or similar agreements;

(b) European Free Trade Association (EFTA) members, or countries or territories covered by the European Neighbourhood Policy that fulfil all of the following criteria:

(i) a good capacity in science, technology and innovation;

(ii) a good track record of participation in Union research and innovation programmes;

(iii) fair and equitable dealing with intellectual property rights;

(c) countries or territories associated to the Seventh Euratom Framework Programme.

2. Specific terms and conditions regarding the participation of associated countries in the Euratom Programme, including the financial contribution, based on the gross domestic product of the associated country, shall be determined by international agreements between the Union and the associated countries.

TITLE II

IMPLEMENTATION

CHAPTER I

Implementation, management and forms of support

Article 6

Management and forms of Community support

1. The Euratom Programme shall be implemented through indirect actions using one or several of the forms of funding provided for by the Financial Regulation, in particular grants, prizes, procurement and financial instruments. The Community support shall also consist of direct actions in the form of research and innovation activities undertaken by the JRC.

2. Without prejudice to Article 10 of the Treaty, the Commission may entrust part of the implementation of the Euratom Programme to the funding bodies referred to in Article 58(1)(c) of the Financial Regulation.

The Commission may also entrust the implementation of indirect action under the Euratom Programme to bodies created under, or referred to in, the Horizon 2020 Framework Programme.

3. The Commission shall adopt, by means of implementing acts, in accordance with the examination procedure referred to in Article 12(3), the decision on the approval of the funding of indirect actions.

Article 7

Rules for participation and dissemination of research results

1. Subject to paragraphs 2 and 3 of this Article, the participation of any legal entity in indirect actions undertaken under the Euratom Programme shall be governed by the rules laid down in Regulation (EU) No 1290/2013 of the European Parliament and of the Council.

2. For the purposes of the Euratom Programme, 'the security rules' referred to in the first subparagraph of Article 43(2) of Regulation (EU) No 1290/2013 shall include the defence interests of the Member States within the meaning of Article 24 of the Treaty.

By way of derogation from the first subparagraph of Article 41(3) of Regulation (EU) No 1290/2013, the Commission or the funding body may, with regard to results which are generated by participants having received Community financial contribution, object to transfers of ownership or to

grants of both an exclusive and a non-exclusive licence, to third parties established in a third country not associated to the Euratom Programme where it considers that the grant or transfer is not in accordance with the interest of developing the competitiveness of the Union economy or is inconsistent with ethical principles or security considerations. 'Security considerations' shall include the defence interests of the Member States within the meaning of Article 24 of the Treaty.

By way of derogation from the first subparagraph of Article 46(1) of Regulation (EU) No 1290/2013, the Community and its joint undertakings shall, for the purpose of developing, implementing and monitoring Community policies and programmes or obligations assumed through international cooperation with third countries and international organisations, enjoy access rights to the results of a participant having received a Community financial contribution. Such access rights shall include the right to authorise third parties to use the results in public procurement and the right to sublicense and shall be limited to non-commercial and non-competitive use and shall be granted on a royalty-free basis.

3. The participant guarantee fund established pursuant to Regulation (EU) No 1290/2013 shall replace and succeed the participant guarantee funds established pursuant to Regulation (Euratom) No 1908/2006 and Regulation (Euratom) No 139/2012.

Any sums from the participant guarantee funds established pursuant to Regulations (Euratom) No 1908/2006 and (Euratom) No 139/2012 shall be transferred, as of 31 December 2013, to the participant guarantee fund established pursuant to Regulation (EU) No 1290/2013. The participants in actions under Decision 2012/93/Euratom signing grant agreements after 31 December 2013 shall make their contribution to the participant guarantee fund.

Article 8

Cross-cutting activities

1. In order to achieve the objectives of the Euratom Programme and to address challenges common to the Euratom Programme and the Horizon 2020 Framework Programme, activities cutting across the indirect actions set out in Annex I and/or those implementing the Specific Programme of the Horizon 2020 Framework Programme, as established by Council Decision 2013/743/EU⁽¹⁾, may benefit from the Union financial contribution.

2. The financial contribution referred to in paragraph 1 of this Article may be combined from the financial contributions for indirect actions set out in Article 4 of this Regulation and in Article 6 of Regulation (EU) No 1291/2013, and implemented through a single funding scheme.

⁽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) (See page 965 of this Official Journal).

*Article 9***Gender equality**

The Euratom Programme shall ensure the effective promotion of gender equality and the gender dimension in research and innovation content.

*Article 10***Ethical principles**

1. All the research and innovation activities carried out under the Euratom Programme shall comply with ethical principles and relevant national, Union and international legislation, including the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights and its Supplementary Protocols.

Particular attention shall 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 of a person, the right to non-discrimination and the need to ensure high levels of human health protection.

2. Research and innovation activities carried out under the Euratom Programme shall have an exclusive focus on civil applications.

*Article 11***Work programmes**

1. The Commission shall adopt, by means of implementing acts, in accordance with the examination procedure referred to in Article 12(3), work programmes for the implementation of the indirect actions. Such work programmes shall allow for bottom-up approaches that address the objectives in innovative ways.

The work programmes shall set out the essential elements for implementing the actions in accordance with the Financial Regulation, including their detailed objectives, the associated funding and a timetable, as well as a multi-annual approach and strategic orientations for the following years of implementation.

2. For direct actions, the Commission shall, in accordance with Decision 96/282/Euratom, draw up a multi-annual work programme, setting out in greater detail the objectives and scientific and technological priorities presented in Annex I, and a timetable for implementation.

That multi-annual work programme shall also take account of relevant research activities carried out by the Member States, associated countries and European and international organisations. It shall be updated as and when appropriate.

3. The work programmes referred to in paragraphs 1 and 2 shall take account of the state of science, technology and innovation at national, Union and international level and of relevant

policy, market and societal developments. They shall be updated as and where appropriate.

4. The work programmes referred to in paragraphs 1 and 2 shall contain a section which identifies the cross-cutting activities as referred to in Article 8.

*Article 12***Committee procedure**

1. The Commission shall be assisted by a Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. The Committee⁽¹⁾ shall meet in two different configurations, dealing respectively with fission related aspects and fusion related aspects of the Euratom Programme.

3. Where reference is made to this paragraph, the examination procedure in accordance with Article 5 of Regulation (EU) No 182/2011 shall apply.

4. Where the opinion of the Committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the Committee so decides or a simple majority of Committee members so requests.

Article 13

The Commission shall regularly inform the Committee referred to in Article 12 of overall progress in implementing the Euratom Programme, and shall provide it with timely information on all indirect actions proposed or funded under the Euratom Programme.

*Article 14***External advice and societal engagement**

1. For the implementation of the Euratom Programme, account shall be taken of advice and inputs provided, where appropriate, by:

- (a) the Euratom Scientific and Technical Committee pursuant to Article 134 of the Treaty;
- (b) independent advisory groups of high-level experts set up by the Commission;
- (c) dialogue structures created under international science and technology agreements;
- (d) forward-looking activities;

⁽¹⁾ With a view to facilitating the implementation of the Euratom Programme, for each meeting of the programme committee as defined in the agenda, the Commission will reimburse, in accordance with its established guidelines, the expenses of one representative per Member State, as well as one expert/adviser per Member State for those agenda items where a Member State requires specific expertise.

- (e) targeted public consultations (including, where appropriate, regional and national authorities or stakeholders); and
- (f) transparent and interactive processes that ensure support to responsible research and innovation.

2. Full account shall also be taken of the research and innovation agendas established by, inter alia, European Technology Platforms, Joint Programming Initiatives and European Innovation Partnerships.

CHAPTER II

Specific fields of action

Article 15

Small and medium-sized enterprises

Particular attention shall be paid to ensuring the adequate participation of, and innovation impact on, small and medium-sized enterprises (SMEs) and the private sector in general in the Euratom Programme. Quantitative and qualitative assessments of SME participation shall be undertaken as part of the evaluation and monitoring arrangements.

Article 16

Public-private and public-public partnerships

To attain the objectives set out in Article 3, specific activities of the Euratom Programme may be implemented through:

- (a) Joint Undertakings established on the basis of Chapter 5 of the Treaty;
- (b) public-public partnerships based on the 'Programme co-fund actions' funding scheme;
- (c) contractual public-private partnerships, as referred in Article 25 of Regulation (EU) No 1291/2013.

Article 17

International cooperation with third countries and international organisations

1. Entities established in third countries and international organisations shall be eligible to participate in indirect actions of the Euratom Programme under the conditions set out in Regulation (EU) No 1290/2013. Exceptions to the general principle in that regard are set out in Article 7 of this Regulation. International cooperation with third countries and international organisations shall be promoted by the Euratom Programme with a view to:

- (a) strengthening the Union's excellence and attractiveness in research and innovation as well as its economic and industrial competitiveness;

- (b) tackling effectively common societal challenges;

- (c) supporting the Union's external and development policy objectives, complementing external and development programmes. Synergies with other Union policies shall be sought.

2. Targeted actions with the objective of promoting cooperation with specific third countries or groups of third countries shall be implemented on the basis of a strategic approach as well as common interest, priorities and mutual benefit, taking into account their scientific and technological capabilities and market opportunities, and the expected impact.

Reciprocal access to third country programmes should be encouraged. In order to maximise impact, coordination and synergies with initiatives of Member States and associated countries shall be promoted. The nature of the cooperation may vary according to the specific partner countries.

Cooperation priorities shall take into account developments in Union policy opportunities for cooperation with third countries, and the fair and equitable treatment of intellectual property rights.

Article 18

Information, communication, exploitation and dissemination

1. When implementing the Euratom Programme, dissemination and communication activities shall be considered an integral part of the actions supported by the Euratom Programme.

2. Communication activities may include:

- (a) initiatives aimed at widening awareness and facilitating access to funding under the Euratom Programme, in particular for those regions or types of participant that have a relatively low participation;
- (b) targeted assistance to projects and consortia to provide them with access to the necessary skills to optimise the communication, exploitation and dissemination of results;
- (c) initiatives to foster dialogue and debate on scientific, technological and innovation-related issues with the public, and to take advantage of social media and other innovative technologies and methodologies;
- (d) communication of the Union's political priorities provided that they are related to the aims of this Regulation; in particular, the Commission shall provide timely and thorough information to Member States.

3. Subject to the Treaty and relevant Union legislation, dissemination activities may include:

- (a) actions which bring together results from a range of projects, including those that may be funded from other sources, to provide user-friendly databases and reports that summarise key findings;
- (b) dissemination of results to policy makers, including standardisation bodies, to promote the use of policy-relevant results by the appropriate bodies at international, Union, national and regional level.

CHAPTER III

Control

Article 19

Control and audit

1. The control system set up for the implementation of this Regulation shall be designed so as to provide reasonable assurance of achieving adequate management of the risks relating to the effectiveness and efficiency of the operations as well as the legality and regularity of the underlying transactions, taking into account the multi-annual character of programmes as well as the nature of the payments concerned.

2. The control system shall ensure an appropriate balance between trust and control, taking into account administrative and other costs of controls at all levels, especially for participants, so that the Euratom Programme objectives can be achieved and the most excellent researchers and most innovative enterprises can be attracted to it.

3. As part of the control system, the audit strategy for expenditure in the indirect actions under the Euratom Programme shall be based on the financial audit of a representative sample of expenditure across the whole Programme. Such representative sample shall be complemented by a selection based on an assessment of the risks related to expenditure.

Audits of expenditure in the indirect actions under the Euratom Programme shall be carried out in a coherent manner in accordance with the principles of economy, efficiency and effectiveness in order to minimise the audit burden of the participants.

Article 20

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation 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, where 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 Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.

Without prejudice to paragraph 3, audits by the Commission may be carried out up to two years after the final payment.

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 Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁾ and Council Regulation (Euratom, EC) No 2185/96⁽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 under the Euratom Programme.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and the OLAF to conduct such audits and investigations, according to their respective competences.

CHAPTER IV

Monitoring and evaluation

Article 21

Monitoring

1. The Commission shall annually monitor the implementation, including progress and achievements, of the Euratom Programme. The Commission shall provide the Committee, referred to in Article 12, with information in this regard.

2. The Commission shall report and make publicly available the results of the monitoring referred to in paragraph 1.

⁽¹⁾ 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⁾ 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).

*Article 22***Evaluation**

1. Evaluations shall be carried out in a sufficiently timely manner to feed into the decision-making process.

By 31 May 2017, and taking into account the ex-post evaluation of the Seventh Euratom Framework Programme established by Decision 2006/970/Euratom and of the Euratom Framework Programme (2012-2013) established by Decision 2012/93/Euratom to be completed by the end of 2015, the Commission shall carry out, with the assistance of independent experts selected on the basis of a transparent process, an interim evaluation of the Euratom Programme on the achievements, at the level of results and progress towards impacts, of the objectives and continued relevance of all the measures, the efficiency and use of resources, the scope for further simplification, and European added value. The evaluation shall also take into account the contribution of the measures to the Union priorities of smart, sustainable and inclusive growth, results on the long-term impact of the predecessor measures and the degree of synergy and interaction with other Union funding programmes, including the Structural Funds.

By 31 December 2022, the Commission shall carry out, with the assistance of independent experts selected on the basis of a transparent process, an ex-post evaluation of the Euratom Programme. Such evaluation shall cover the rationale, implementation and achievements, as well as the longer-term impacts and sustainability of the measures, to feed into a decision on a possible renewal, modification or suspension of a subsequent measure.

2. Without prejudice to paragraph 1, direct and indirect actions of the Euratom Programme shall be subject to separate evaluations.

3. The evaluations referred to in paragraphs 1 and 2 shall assess the progress towards the objectives set out in Article 3, taking into account the relevant performance indicators defined in Annex II.

4. Where appropriate and available, Member States shall provide the Commission with data and information necessary for the monitoring and evaluation of the measures concerned.

5. The Commission shall communicate the conclusions of the evaluations referred to in paragraphs 1 and 2, accompanied by its observations, to the European Parliament, the Council and the European Economic and Social Committee.

TITLE III

FINAL AND TRANSITIONAL PROVISIONS*Article 23***Repeal and transitional provisions**

1. The Decision of 16 December 1980 setting up the Consultative Committee for the Fusion Programme, Decision 84/338/Euratom, ECSC, EEC, Decision 2006/970/Euratom, Decision 2006/976/Euratom, Decision 2006/977/Euratom, Regulation (Euratom) No 1908/2006, Decision 2012/93/Euratom, Regulation (Euratom) No 139/2012, Decision 2012/94/Euratom and Decision 2012/95/Euratom are repealed with effect from 1 January 2014.

2. Activities benefiting from the Community financial contributions under programmes established by the Decisions referred to in paragraph 1 and related financial obligations shall continue to be governed by the rules applicable to those programmes until their completion.

3. The financial allocation referred to in Article 4 may also cover the technical and administrative assistance expenses necessary to ensure the transition between the Euratom Programme and the measures adopted under Decision 2012/93/Euratom, Decision 2012/94/Euratom and Decision 2012/95/Euratom.

4. In order to ensure the continuity of Community support to fusion research, expenditure incurred from 1 January 2014 by the beneficiaries of the Programme co-fund action referred to in point (i) of Annex I shall be eligible for Community support.

*Article 24***Entry into force**

This Regulation shall enter into force on the third 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, 16 December 2013.

For the Council
The President
V. JUKNA

ANNEX I

ACTIVITIES

Rationale for the Euratom Programme — paving the way to 2020

By achieving the objectives set out in Article 3, the Euratom Programme will reinforce outcomes under the three priorities of the 'Horizon 2020' Framework Programme, namely *excellent science, industrial leadership and societal challenges*.

Nuclear power constitutes an element in the debate on combating climate change and reducing Europe's dependence on imported energy. In the broader context of finding a sustainable energy-mix for the future, the Euratom Programme will also contribute through its research activities to the debate on the benefits and the limitations of nuclear fission energy for a low-carbon economy. Through ensuring continuous improvement of nuclear safety, more advanced nuclear technologies could also offer the prospect of significant improvements in efficiency and use of resources and producing less waste than current designs. Nuclear safety aspects will receive the greatest possible attention.

The Euratom Programme will strengthen the research and innovation framework in the nuclear field and coordinate Member States' research efforts, thereby avoiding duplication, retaining critical mass in key areas and ensuring that public funding is used in an optimal way. The coordination will, however, not prevent Member States from having programmes to fulfil national needs.

The strategy to develop fusion as a credible option for commercial carbon-free energy production will follow a roadmap with milestones towards the goal of electricity production by 2050. To implement that strategy, a restructuring of fusion-related work in the Union, including governance, funding and management, must be carried out to ensure a shift of emphasis from pure research to designing, building and operating future facilities such as ITER, DEMO and beyond. That will require a close cooperation between the entire Union fusion community, the Commission and the national funding agencies.

In order to maintain the Union expertise necessary for achieving those goals, the Euratom Programme must further enhance its role in training through the establishment of training facilities of pan-European interest that will deliver dedicated programmes. That will continue to promote the European Research Area and the further integration of new Member States and associated countries.

Activities necessary to achieve the programme objectives*Indirect actions*

In order to ensure that the indirect actions of the Euratom Programme mutually reinforce research efforts of the Member States and the private sector, the priorities of the work programmes are to be established on the basis of appropriate inputs from national public authorities and nuclear research stakeholders grouped in bodies or frameworks such as technology platforms and technical forums for nuclear systems and safety, management of ultimate waste and radiation protection/low-dose risk, fusion research, or any relevant organisation or forum of nuclear stakeholders.

(a) Supporting safety of nuclear systems (Societal challenges, Excellent science, Industrial leadership)

In line with the general objective, support to joint research activities concerning the safe operation and decommissioning of reactor systems (including fuel cycle facilities) in use in the Union or, to the extent necessary in order to maintain broad nuclear safety expertise in the Union, those reactor types which may be used in the future, focusing exclusively on safety aspects, including all aspects of the fuel cycle such as partitioning and transmutation.

(b) Contributing to the development of safe, longer term solutions for the management of ultimate nuclear waste, including final geological disposal as well as partitioning and transmutation (Excellent science, Societal challenges)

Joint and/or coordinated research activities on remaining key aspects of geological disposal of spent fuel and long-lived radioactive waste with, as appropriate, demonstration of technologies and safety. Those activities are to promote the development of a common Union view on the main issues related to waste management from discharge of fuel to disposal.

Research activities related to management of other radioactive waste streams for which industrially mature processes currently do not exist.

- (c) Supporting the development and sustainability of nuclear expertise and excellence in the Union (Excellent science)

Promoting joint training and mobility activities between research centres and industry, and between different Member and Associated States, as well as support for maintaining multi-disciplinary nuclear competences in order to guarantee the availability of suitably qualified researchers, engineers and employees in the nuclear sector in the Union in the long term.

- (d) Supporting radiation protection and development of medical applications of radiation, including, inter alia, the secure and safe supply and use of radioisotopes (Excellent science, Societal challenges)

Joint and/or coordinated research activities, in particular those regarding the risks from low doses from industrial, medical or environmental exposure, on emergency management in relation to accidents involving radiation, and on radioecology, to provide a pan-European scientific and technological basis for a robust, equitable and socially acceptable system of protection.

Research activities on medical applications of ionising radiation and addressing the operational safety aspects of radiation protection and their utilisation.

- (e) Moving towards demonstration of feasibility of fusion as a power source by exploiting existing and future fusion facilities (Industrial leadership, Societal challenges)

Supporting common research activities undertaken by members of the European Fusion Development Agreement and any of the entities referred to under paragraph (i) to ensure the swift start of high performance operation of ITER including the use of relevant facilities (including JET, the Joint European Torus), of integrated modelling using, among others, high performance computers, and training activities to prepare the next generation of researchers and engineers.

- (f) Laying the foundations for future fusion power plants by developing materials, technologies and conceptual design (Industrial leadership, Societal challenges)

Supporting joint activities undertaken by members of the European Fusion Development Agreement and any of the entities referred to under paragraph (i) to develop and qualify materials for a demonstration power plant requiring, inter alia, preparatory work for an appropriate material test facility and negotiations for the Union's participation in a suitable international framework for that facility. Such development and qualifications are to make use of all possible levels of the experimental, computational and theoretical capacities available.

Supporting joint research activities undertaken by members of the European Fusion Development Agreement and any of the entities referred to under paragraph (i) that will address reactor operation issues and will develop and demonstrate all relevant technologies for a fusion demonstration power plant. Those activities include the preparation of complete demonstration power plant conceptual designs and exploration of the potential of stellarators as a power plant technology.

- (g) Promoting innovation and industry competitiveness (Industrial leadership)

Implementing or supporting knowledge management and technology transfer from the research co-funded by the Euratom Programme to industry exploiting all innovative aspects of the research.

Promoting innovation through, inter alia, open access to scientific publications, a database for knowledge management and dissemination and promoting technology topics in educational programmes.

In the long term, the Euratom Programme is to support the preparation and development of a competitive nuclear fusion industrial sector facilitating the involvement of the private sector as well as SMEs where appropriate, in particular through the implementation of a technology road map to a fusion power plant with active industrial involvement in the design and development projects.

- (h) Ensuring availability and use of research infrastructures of pan-European relevance (Excellent science)

Activities supporting the construction, refurbishment, use and continued availability of key research infrastructures under the Euratom Programme, as well as appropriate access to those infrastructures and cooperation between them.

(i) European Fusion Programme

A grant (Programme co-fund action) is to be awarded to the legal entities established or designated by Member States and any third country associated to the Euratom Programme and that will develop a joint programme of activities implementing the roadmap towards the goal of electricity production by 2050. That grant may include resources in kind from the Community, such as scientific and technical exploitation of the JET facility in accordance with Article 10 of the Treaty, or the secondment of Commission staff.

JRC direct actions

The priorities for direct actions are to be established through consultation of the policy Directorates-General of the Commission and of the JRC Board of Governors.

The nuclear activities of the JRC must aim to support the implementation of Council Directives 2009/71/Euratom ⁽¹⁾ and 2011/70/Euratom ⁽²⁾, as well as Council Conclusions giving priority to the highest standards for nuclear safety in the Union and internationally.

The JRC must notably contribute to the nuclear safety research needed for safe, secure and peaceful use of nuclear energy and other non fission applications. The JRC will provide a scientific basis for the relevant Union policies and, where necessary, react within the limits of its mission and competence to nuclear events, incidents and accidents. To that effect, the JRC will carry out research and assessments, provide references and standards and deliver dedicated training and education. Synergies with relevant cross-cutting initiatives will be sought as appropriate, with the aim of optimizing human and financial resources and to avoid duplication of nuclear research and development in the European Union. The JRC activities in these areas will be conducted taking into account relevant initiatives at the regional, Member State or at European Union level, within the perspective of shaping the European Research Area.

(a) Improving nuclear safety including: nuclear reactor and fuel safety, waste management including final geological disposal as well as partitioning and transmutation; decommissioning, and emergency preparedness

The JRC will contribute to the development of tools and methods to achieve high safety standards for nuclear installations and fuel cycles relevant to Europe. Those tools and methods will include:

- (1) severe accident analyses modelling and methodologies for assessment of nuclear installations' operational safety margins; supporting the establishment of a common European approach to the evaluation of advanced fuel cycles and designs; and investigation and dissemination of the lessons learnt from operational experience. The JRC will further pursue its 'European Clearinghouse on NPP Operational Experience Feedback' to focus its activities on post-Fukushima nuclear safety challenges, appealing to the Members States' competences in this area;
- (2) minimisation of the scientific uncertainties in the prediction of long-term behaviour of nuclear waste and of the dispersion of radionuclides in the environment; and key aspects of research on decommissioning of nuclear installations;
- (3) exchange with relevant stakeholders for strengthening Union capacity to respond to nuclear accidents and incidents by research on alert systems and models for radiological dispersion in the air, and by mobilising resources and expertise for analysing and modelling nuclear accidents.

(b) Improving nuclear security including: nuclear safeguards, non-proliferation, combating illicit trafficking, and nuclear forensics

The area of non-proliferation must receive the greatest possible attention. The JRC will:

- (1) develop enhanced methodologies and detection/verification methods and technologies to support the Community safeguards and strengthen international safeguards;
- (2) develop and apply enhanced methods and technology to prevent, detect and respond to nuclear and radioactive incidents, including qualification of detection technology and development of nuclear forensics methods and techniques in the fight against illicit trafficking in synergies with the global CBRN (Chemical, Biological, Radiological, Nuclear) framework;

⁽¹⁾ Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18).

⁽²⁾ Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (OJ L 199, 2.8.2011, p. 48).

(3) support the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons and Union-related strategies through analysis studies and follow-up of the technical evolution of export control regimes to support relevant Commission and Union services.

(c) Increasing excellence in the nuclear science base for standardisation

The JRC will further develop the scientific basis for nuclear safety and security. Emphasis will be given to research on fundamental properties and behaviour of actinides, structural and nuclear materials. In supporting Union standardisation, the JRC will provide state-of-the-art nuclear standards, reference data and measurements, including the development and implementation of relevant databases and assessment tools. The JRC will support the further development of medical applications, namely new cancer therapies based on alpha irradiation.

(d) Fostering knowledge management, education and training

The JRC must stay abreast of new developments in research and instrumentation, safety and environmental regulations. To that effect, a rolling investment plan for the scientific infrastructures must be implemented.

In order to maintain the Union at the forefront of nuclear safety and security, the JRC must develop knowledge management tools, monitor Union trends in human resources through its Nuclear Human Resources Observatory and deliver dedicated training and education programmes, covering also decommissioning aspects.

(e) Supporting the policy of the Union on nuclear safety and security

The JRC must foster its expertise and excellence in order to provide independent scientific and technical evidence which might be necessary to support Union policy on nuclear safety and security.

As the Euratom Implementing Agent for the Generation IV International Forum (GIF), the JRC will continue to coordinate the Community contribution to GIF. The JRC will pursue and further develop international research cooperation with key partner countries and international organizations (IAEA, OECD/NEA) in order to promote the Union's nuclear safety and security policies.

Cross-cutting activities within the Euratom Programme

In order to achieve its general objectives, the Euratom Programme will support complementary activities (direct and indirect, coordination and stimulating joint programming) that ensure synergy of research efforts in solving common challenges (such as materials, coolant technology, reference nuclear data, modelling and simulation, remote handling, waste management, radiation protection).

Cross-cutting activities and interfaces with the Horizon 2020 Framework Programme

In order to achieve the objectives of the Euratom Programme, appropriate links and interfaces, such as joint calls, will be ensured with the Specific Programme of the Horizon 2020 Framework Programme.

The Euratom Programme may contribute to the Debt facility and Equity facility developed under the Horizon 2020 Framework Programme that will be widened to cover the objectives referred to in Article 3.

International cooperation with third countries and international organisations

International cooperation in nuclear research and innovation, based on shared goals and mutual trust, must continue, with the aim of providing clear and significant benefits for the Union and its environment. As a contribution to the achievement of the specific objectives set out in Article 3, the Community will seek to reinforce the Union's scientific and technical expertise through international cooperation agreements and to promote the access of the Union nuclear industry to new emerging markets.

International cooperation activities will be promoted through multilateral frameworks (such as IAEA, OECD, ITER, GIF), and by the existing or new bilateral cooperation with countries having strong R&D and industrial bases and research installations under operation, design or construction.

ANNEX II

PERFORMANCE INDICATORS

This Annex presents for each of the specific objectives of the Euratom Programme a number of key performance indicators for assessing results and impacts that may be refined during the implementation of the Euratom Programme.

1. Indicators for indirect actions

- (a) Supporting safety of nuclear systems
 - The number of projects (joint research and/or coordinated actions) likely to lead to a demonstrable improvement in nuclear safety practice in Europe.
- (b) Contributing to the development of safe, longer term solutions for the management of ultimate nuclear waste, including final geological disposal as well as partitioning and transmutation
 - The number of projects contributing to the development of safe long term solutions for the management of ultimate nuclear waste.
- (c) Supporting the development and sustainability of nuclear expertise and excellence in the Union
 - Training through research - the number of PhD students and postdoctoral researchers supported through the Euratom fission projects.
 - The number of fellows and trainees in the Euratom fusion programme.
- (d) Supporting radiation protection and development of medical applications of radiation, including, inter alia, the secure and safe supply and use of radioisotopes
 - The number of projects likely to have a demonstrable impact on regulatory practice regarding radiation protection and on development of medical applications of radiation.
- (e) Moving towards demonstration of feasibility of fusion as a power source by exploiting existing and future fusion facilities
 - The number of publications in peer-reviewed high impact journals.
- (f) Laying the foundations for future fusion power plants by developing materials, technologies and conceptual design
 - The percentage of the Fusion Roadmap's milestones, established for the period 2014-2018, reached by the Euratom Programme.
- (g) Promoting innovation and industry competitiveness
 - The number of spin-offs from the fusion research under the Euratom Programme.
 - The patents applications generated and patents awarded on the basis of research activities supported by the Euratom Programme.
- (h) Ensuring availability and use of research infrastructures of pan-European relevance
 - The number of researchers having access to research infrastructures through Euratom Programme support.

2. Indicators for direct actions

- (a) Impact indicator for JRC policy support
 - The number of occurrences of tangible specific impacts on Union policies resulting from technical and scientific policy support provided by the JRC.

(b) JRC scientific productivity indicator

- The number of peer reviewed publications.

The indicators referred to in points (a) and (b) may be represented according to the following Community objectives of direct actions:

- Improving nuclear safety including: nuclear reactor and fuel safety, waste management, including final geological disposal as well as partitioning and transmutation; decommissioning; and emergency preparedness;
 - Improving nuclear security including: nuclear safeguards, non-proliferation, combating illicit trafficking, and nuclear forensics;
 - Increasing excellence in the nuclear science base for standardisation;
 - Fostering knowledge management, education and training;
 - Supporting the policy of the Union on nuclear safety and security.
-

DECISIONS

COUNCIL DECISION

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

(Text with EEA relevance)

(2013/743/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 182(4) 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 Parliament,

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

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

(1) In accordance with Article 182(3) of the Treaty on the Functioning of the European Union (TFEU), the Framework Programme for Research and Innovation 2014-2020 ("Horizon 2020"), established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 ⁽³⁾, is to be implemented through a specific programme which determines the specific objectives and rules for their implementation, fixes its duration and provides for the means deemed necessary.

(2) The general objective of Horizon 2020 should be pursued through three priorities dedicated to generating excellent science ("Excellent science"), creating industrial leadership ("Industrial leadership") and tackling societal challenges ("Societal challenges"). The general objective should also be pursued through the specific objectives "Spreading excellence and widening participation" and "Science with and for society". Those priorities and specific objectives should be implemented by means of a specific programme setting out one Part for each of the three priorities, one Part for the specific objective "Spreading excellence and widening participation", one Part for the specific objective "Science with and for society" and one Part for the non-nuclear direct actions of the Joint Research Centre (JRC).

(3) All Horizon 2020 priorities and specific objectives should include an international dimension. International cooperation activities should be maintained at least at the level of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) ("Seventh Framework Programme"), adopted by Decision No 1982/2006/EC of the European Parliament and of the Council ⁽⁴⁾.

(4) While Regulation (EU) No 1291/2013 sets out the general objective of Horizon 2020, the priorities and the broad lines of the specific objectives and activities to be carried out, the specific programme should define the specific objectives and the broad lines of the activities which are specific to each of the Parts. The provisions on implementation set out in Regulation (EU) No 1291/2013 apply fully to the specific programme, including those relating to ethical principles.

(5) Each Part should be complementary to and implemented in a coherent way with the other Parts of the specific programme.

⁽¹⁾ OJ C 181, 21.6.2012, p. 111.

⁽²⁾ OJ C 277, 13.9.2012, p. 143.

⁽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 (See page 104 of this Official Journal).

⁽⁴⁾ 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).

- (6) There is a critical need to reinforce, widen and extend the excellence of the Union's science base and to ensure a supply of world-class research and talent to secure Europe's long term competitiveness and well-being. The priority "Excellent science" should support the activities of the European Research Council (ERC) on frontier research, future and emerging technologies, Marie Skłodowska-Curie actions and European research infrastructures. These activities should aim at building competence in the long term, focusing strongly on the next generation of science, systems and researchers, and providing support for emerging talent from across the Union and from associated countries. Union activities to support excellent science should help consolidate the European Research Area (ERA) and make the science system of the Union more competitive and attractive on a global scale.
- (7) Research actions carried out under the priority "Excellent science" should be determined according to the needs and opportunities of science. The research agenda should be set in close liaison with the scientific community. Research should be funded on the basis of excellence.
- (8) The ERC should replace and succeed the ERC established by Commission Decision 2007/134/EC⁽¹⁾. It should operate according to the established principles of scientific excellence, autonomy, efficiency and transparency.
- (9) In order to maintain and increase the Union's industrial leadership there is an urgent need to stimulate private sector research and development and innovation investment, promote research and innovation with a business driven agenda and accelerate the development of new technologies which will underpin future businesses and economic growth. The priority "Industrial leadership" should support investments in excellent research and innovation in key enabling technologies and other industrial technologies, facilitate access to risk finance for innovative companies and projects, and provide Union-wide support for innovation in micro, small and medium-sized enterprises (SMEs).
- (10) Space research and innovation, which is a shared competence of the Union, should be included as a coherent element in the priority "Industrial leadership" in order to maximise the scientific, economic and societal impact and to ensure an efficient and cost-effective implementation.
- (11) Addressing the major societal challenges identified in the Europe 2020 strategy for smart, sustainable and inclusive growth ("Europe 2020 strategy") requires major investments in research and innovation to develop and deploy novel and breakthrough solutions that have the necessary scale and scope. These challenges also represent major economic opportunities for innovative companies and therefore contribute to the Union's competitiveness and employment.
- (12) The priority "Societal challenges" should increase the effectiveness of research and innovation in responding to key societal challenges by supporting excellent research and innovation activities. Those activities should be implemented using a challenge-based approach which brings together resources and knowledge across different fields, technologies and disciplines. Social sciences and humanities research is an important element for addressing all of the challenges. The activities should cover the full range of research and innovation, including innovation-related activities such as piloting, demonstration, test-beds, and support for public procurement, pre-normative research and standard setting, and market uptake of innovations. The activities should support directly the corresponding sectoral policy competences at Union level, where appropriate. All challenges should contribute to the overarching objective of sustainable development.
- (13) There should be an appropriate balance between small and large projects within the priority "Societal challenges" and the specific objective "Leadership in enabling and industrial technologies".
- (14) The specific objective "Spreading excellence and widening participation" should fully exploit the potential of Europe's talent pool and ensure that the benefits of an innovation-led economy are both maximised and widely distributed across the Union in accordance with the principle of excellence.
- (15) The specific objective "Science with and for society" should build effective cooperation between science and society, foster the recruitment of new talent for science, and pair scientific excellence with social awareness and responsibility.
- (16) As an integral part of Horizon 2020, the JRC should continue to provide independent customer-driven scientific and technical support for the formulation, development, implementation and monitoring of Union policies. In order to achieve its mission the JRC should carry out research of the highest quality. In carrying out the direct actions in accordance with its mission, the JRC should place particular emphasis on areas of key concern for the Union, namely smart, inclusive and sustainable growth, and the headings "Security and citizenship" and "Global Europe" of the Multiannual Financial Framework for 2014-2020.

⁽¹⁾ Commission Decision 2007/134/EC of 2 February 2007 establishing the European Research Council (OJ L 57, 24.2.2007, p. 14).

- (17) The direct actions of the JRC should be implemented in a flexible, efficient and transparent manner, taking into account the relevant needs of the users of the JRC and the needs of Union policies, and respecting the objective of protecting the financial interests of the Union. Those research actions should be adapted, where appropriate, to those needs and to scientific and technological developments and should aim to achieve scientific excellence.
- (18) The JRC should continue to generate additional resources through competitive activities, including participation in the indirect actions of Horizon 2020, third party work and, to a lesser extent, the exploitation of intellectual property.
- (19) The specific programme should complement the actions carried out in the Member States as well as other Union actions which are necessary for the overall strategic effort for the implementation of the Europe 2020 strategy.
- (20) Pursuant to Council Decision 2001/822/EC⁽¹⁾, legal entities of the overseas countries and territories are eligible to participate in Horizon 2020 subject to the specific conditions laid down in the latter.
- (21) In order to ensure that the specific conditions for the use of the finance facilities reflect market conditions, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to adapt or define further the specific conditions for use of the finance facilities. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a timely and appropriate transmission of relevant documents to the Council.
- (22) In order to ensure uniform conditions for the implementation of the specific programme, implementing powers should be conferred on the Commission to adopt work programmes for the implementation of the specific programme.
- (23) The implementing powers relating to the work programmes for the priorities "Excellent science", "Industrial leadership" and "Societal challenges" and for the specific objectives "Spreading excellence and widening participation" and "Science with and for

society" should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽²⁾.

- (24) The Board of Governors of the JRC, set up by Commission Decision 96/282/Euratom⁽³⁾, has been consulted on the scientific and technological content of the specific programme on the non-nuclear direct actions of the JRC.
- (25) For reasons of legal certainty and clarity, Council Decision 2006/971/EC⁽⁴⁾, Council Decision 2006/972/EC⁽⁵⁾, Council Decision 2006/973/EC⁽⁶⁾, Council Decision 2006/974/EC⁽⁷⁾ and Council Decision 2006/975/EC⁽⁸⁾ should be repealed,

HAS ADOPTED THIS DECISION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Decision establishes the specific programme implementing Regulation (EU) No 1291/2013 and determines the specific objectives for Union support to the research and innovation activities set out in Article 1 of that Regulation as well as the rules for implementation.

- ⁽²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).
- ⁽³⁾ Commission Decision 96/282/Euratom of 10 April 1996 on the reorganization of the Joint Research Centre (OJ L 107, 30.4.1996, p. 12).
- ⁽⁴⁾ 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).
- ⁽⁵⁾ Council Decision 2006/972/EC of 19 December 2006 concerning the specific programme: 'Ideas' 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. 243).
- ⁽⁶⁾ Council Decision 2006/973/EC of 19 December 2006 concerning the specific programme 'People' 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. 272).
- ⁽⁷⁾ Council Decision 2006/974/EC of 19 December 2006 on the specific programme: 'Capacities' 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. 299).
- ⁽⁸⁾ Council Decision 2006/975/EC of 19 December 2006 concerning the specific programme to be carried out by means of direct actions by the Joint Research Centre under 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. 368).

⁽¹⁾ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ("Overseas Association Decision") (OJ L 314, 30.11.2001, p. 1).

*Article 2***Establishment of the specific programme**

1. The specific programme implementing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) (the 'specific programme') is hereby established for the period from 1 January 2014 to 31 December 2020.

2. In accordance with Article 5(2), (3) and (4) of Regulation (EU) No 1291/2013, the specific programme shall consist of the following Parts:

- (a) Part I 'Excellent science';
- (b) Part II 'Industrial leadership';
- (c) Part III 'Societal challenges';
- (d) Part IV 'Spreading excellence and widening participation';
- (e) Part V 'Science with and for society';
- (f) Part VI 'Non-nuclear direct actions of the Joint Research Centre (JRC)'.

*Article 3***Specific objectives**

1. Part I 'Excellent science' shall strengthen the excellence of European research in accordance with the priority "Excellent science" set out in point (a) of Article 5(2) of Regulation (EU) No 1291/2013 by pursuing the following specific objectives:

- (a) strengthening frontier research, through the activities of the European Research Council (ERC) ("The European Research Council (ERC)");
- (b) strengthening research in future and emerging technologies ("Future and Emerging Technologies (FET)");
- (c) strengthening skills, training and career development, through the Marie Skłodowska-Curie actions ("Marie Skłodowska-Curie actions");
- (d) strengthening European research infrastructures, including e-infrastructures ("Research infrastructures").

The broad lines of the activities for those specific objectives are set out in Part I of Annex I.

2. Part II 'Industrial leadership' shall strengthen industrial leadership and competitiveness in accordance with the priority 'Industrial leadership' set out in point (b) of Article 5(2) of Regulation (EU) No 1291/2013 by pursuing the following specific objectives:

- (a) boosting Europe's industrial leadership through research, technological development, demonstration and innovation in the following enabling and industrial technologies ("Leadership in enabling and industrial technologies"):
 - (i) information and communication technologies ("ICT");
 - (ii) nanotechnologies;
 - (iii) advanced materials;
 - (iv) biotechnology;
 - (v) advanced manufacturing and processing;
 - (vi) space;
- (b) enhancing access to risk finance for investing in research and innovation ("Access to risk finance");
- (c) increasing innovation in SMEs ("Innovation in SMEs").

The broad lines of the activities for those specific objectives are set out in Part II of Annex I.

There shall be specific conditions for use of finance facilities under the specific objective in point (b) of the first subparagraph. Those conditions are set out in section 2 of Part II of Annex I.

The Commission shall be empowered to adopt delegated acts in accordance with Article 11 concerning the modifications of the share of investment from the Equity facility of Horizon 2020 of the total Union investment in expansion and growth-stage investments regarding the financial instruments referred to in section 2 of Part II of Annex I.

3. Part III 'Societal challenges' shall contribute to the priority 'Societal challenges' set out in point (c) of Article 5(2) of Regulation (EU) No 1291/2013 by pursuing research, technological development, demonstration and innovation actions which contribute to the following specific objectives:

- (a) improving the lifelong health and well-being of all ("Health, demographic change and well-being");
- (b) securing sufficient supplies of safe, healthy and high quality food and other bio-based products, by developing productive, sustainable and resource-efficient primary production systems, fostering related ecosystem services and the recovery of biological diversity, alongside competitive and low-carbon supply, processing and marketing chains ("Food security, sustainable agriculture and forestry, marine, maritime and inland water research, and the bioeconomy");
- (c) making the transition to a reliable, affordable, publicly accepted, sustainable and competitive energy system, aiming at reducing fossil fuel dependency in the face of increasingly scarce resources, increasing energy needs and climate change ("Secure, clean and efficient energy");
- (d) achieving a European transport system that is resource-efficient, climate- and environmentally-friendly, safe and seamless for the benefit of all citizens, the economy and society ("Smart, green and integrated transport");
- (e) achieving a resource- and water-efficient and climate change resilient economy and society, protection and sustainable management of natural resources and ecosystems and a sustainable supply and use of raw materials, in order to meet the needs of a growing global population within the sustainable limits of the planet's natural resources and ecosystems ("Climate action, environment, resource efficiency and raw materials");
- (f) fostering a greater understanding of Europe, providing solutions and supporting inclusive, innovative and reflective European societies in a context of unprecedented transformations and growing global interdependencies ("Europe in a changing world – Inclusive, innovative and reflective societies");
- (g) fostering secure European societies in a context of unprecedented transformations and growing global interdependencies and threats, while strengthening the European

culture of freedom and justice ("Secure societies – Protecting freedom and security of Europe and its citizens").

The broad lines of the activities for those specific objectives are set out in Part III of Annex I.

4. Part IV 'Spreading excellence and widening participation' shall contribute to the specific objective "Spreading excellence and widening participation" set out in Article 5(3) of Regulation (EU) No 1291/2013 by fully exploiting the potential of Europe's talent pool and ensuring that the benefits of an innovation-led economy are both maximised and widely distributed across the Union in accordance with the principle of excellence.

The broad lines of the activities for this specific objective are set out in Part IV of Annex I.

5. Part V 'Science with and for society' shall contribute to the specific objective "Science with and for society" set out in Article 5(3) of Regulation (EU) No 1291/2013 by building effective cooperation between science and society, recruiting new talent for science and pairing scientific excellence with social awareness and responsibility.

The broad lines of the activities for this specific objective are set out in Part V of Annex I.

6. Part VI 'Non-nuclear direct actions of the Joint Research Centre (JRC)' shall contribute to all of the priorities set out in Article 5(2) of Regulation (EU) No 1291/2013 with the specific objective of providing customer-driven scientific and technical support to Union policies.

The broad lines of the activities for this specific objective are set out in Part VI of Annex I.

7. The specific programme shall be assessed in relation to results and impact as measured against performance indicators.

Further details on the key performance indicators are set out in Annex II.

Article 4

Budget

1. In accordance with Article 6(1) of Regulation (EU) No 1291/2013, the financial envelope for the implementation of the specific programme shall be EUR 74 316,9 million.

2. The amount referred to in paragraph 1 of this Article shall be distributed among the six Parts set out in Article 2(2) of this Decision in accordance with Article 6(2) of Regulation (EU) No 1291/2013. The indicative budgetary breakdown for the specific objectives set out in Article 3 of this Decision and the maximum overall amount of the contribution to the actions of the JRC are set out in Annex II to Regulation (EU) No 1291/2013.

3. No more than 5 % of the amounts referred to in Article 6(2) of Regulation (EU) No 1291/2013 for Parts I to V of the specific programme shall be for the Commission's administrative expenditure. The Commission shall ensure that during the programme its administrative expenditure will decrease and it will endeavour to reach a target of 4,6 % or less in 2020. These figures shall be subject to review as part of the Horizon 2020 interim evaluation as laid down in Article 32(3) of Regulation (EU) No 1291/2013.

4. Where necessary, appropriations may be entered in the budget beyond 2020 to cover technical and administrative expenses, in order to enable the management of activities not yet completed by 31 December 2020.

TITLE II

IMPLEMENTATION

Article 5

Work programmes

1. The specific programme shall be implemented by work programmes.

2. The Commission shall adopt common or separate work programmes for the implementation of Parts I to V of the specific programme referred to in points (a) to (e) of Article 2(2), except for the implementation of the actions under the specific objective "The European Research Council (ERC)", referred to in point (a) of Article 3(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10(4).

3. The work programmes for the implementation of the actions under the specific objective "The European Research Council (ERC)" referred to in point (a) of Article 3(1), as established by the Scientific Council under point (b) of Article 7(2), shall be adopted by the Commission, by means of an implementing act, in accordance with the advisory procedure referred to in Article 10(3). The Commission shall depart from the work programme established by the Scientific Council only when it considers that it is not in accordance with the provisions of this Decision. In that case, the Commission shall adopt the work programme by means of an implementing act in accordance with the examination procedure referred to in Article 10(4). The Commission shall duly motivate this measure.

4. The Commission shall adopt a separate multi-annual work programme, by means of an implementing act, for Part VI of the specific programme referred to in point (f) of Article 2(2).

This work programme shall take into account the opinion provided by the Board of Governors of the JRC referred to in Decision 96/282/Euratom.

5. The work programmes shall take account of the state of science, technology and innovation at national, Union and international level and of relevant policy, market and societal developments. They shall contain, where appropriate, information on coordination with research and innovation activities carried out by Member States (including their regions), including in areas where there are joint programming initiatives. They shall be updated where appropriate.

6. The work programmes for the implementation of Parts I to V referred to in points (a) to (e) of Article 2(2) of this Decision shall set out the objectives pursued, the expected results, the method of implementation and their total amount, including indicative information on the amount of climate-related expenditure, where appropriate. They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action, an indicative implementation timetable, as well as a multi-annual approach and strategic orientations for the following years of implementation. They shall include for grants the priorities, the selection and award criteria and the relative weight of the different award criteria and the maximum rate of funding of the total eligible costs. They shall also indicate any additional exploitation and dissemination obligations for participants, in accordance with Article 43 of Regulation (EU) No 1290/2013⁽¹⁾ of the European Parliament and of the Council. They shall allow for strategic top-down as well as bottom-up approaches, as appropriate, that address the objectives in innovative ways.

In addition, those work programmes shall contain a section which identifies the cross-cutting issues as referred to in Article 14 and under the subtitle "Cross-cutting issues and support measures in Horizon 2020" in Annex I to Regulation (EU) No 1291/2013, across two or more specific objectives both within the same priority or across two or more priorities. Those actions shall be implemented in an integrated manner.

7. The Commission shall adopt, by means of implementing acts, in accordance with the examination procedure referred to in Article 10(4) the following measures:

- (a) the decision on the approval of the funding of indirect actions, where the estimated amount of the Union contribution under the specific programme is equal to or more than EUR 2,5 million, with the exception of actions under the specific objective "European Research Council (ERC)" referred to in point (a) of Article 3(1) of this Decision and with the exception of actions funded under the "Fast Track to Innovation" pilot, referred to in Article 24 of Regulation (EU) No 1291/2013;

⁽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 (See page 81 of this Official Journal).

- (b) the decision on the approval of the funding of actions involving the use of human embryos and human embryonic stem cells and of actions under the specific objective "Secure societies – Protecting freedom and security of Europe and its citizens" referred to in point (g) of Article 3(3);
- (c) the decision on the approval of the funding of actions, where the estimated amount of the Union contribution under the specific programme is equal to or more than EUR 0,6 million for actions under the specific objective "Europe in a changing world – Inclusive, innovative and reflective societies" referred to in point (f) of Article 3(3) and for actions under the specific objectives "Spreading excellence and widening participation" and "Science with and for society" referred to in Article 3(4) and (5) respectively;
- (d) the drawing up of the terms of reference for the evaluations provided for in Article 32 of Regulation (EU) No 1291/2013.

Article 6

European Research Council

1. The Commission shall establish a European Research Council ("ERC"), which shall be the means of implementing the actions under Part I 'Excellent science' which relate to the specific objective "The European Research Council (ERC)", referred to in point (a) of Article 3(1) of this Decision. The ERC shall succeed the ERC set up by Decision 2007/134/EC.
2. The ERC shall be composed of the independent Scientific Council provided for in Article 7 and the dedicated implementation structure provided for in Article 8.
3. The ERC shall have a President who shall be chosen from among senior and internationally respected scientists.

The President shall be appointed by the Commission following a transparent recruitment process involving an independent dedicated search committee, for a term of office limited to four years, renewable once. The recruitment process and the candidate selected shall have the approval of the Scientific Council.

The President shall chair the Scientific Council and shall ensure its leadership and liaison with the dedicated implementation structure, and represent it in the world of science.

4. The ERC shall operate according to the principles of scientific excellence, autonomy, efficiency, effectiveness, trans-

parency and accountability. It shall ensure continuity with ERC actions conducted under Decision 2006/972/EC.

5. The activities of the ERC shall support research carried out across all fields by individual and transnational teams in competition at the European level. ERC frontier research grants shall be awarded on the sole criterion of excellence.
6. The Commission shall act as the guarantor of the autonomy and integrity of the ERC and shall ensure the proper execution of the tasks entrusted to it.

The Commission shall ensure that the implementation of the ERC actions is in accordance with the principles set out in paragraph 4 of this Article as well as with the overall strategy for the ERC, referred to in point (a) of Article 7(2), established by the Scientific Council.

Article 7

Scientific Council

1. The Scientific Council shall be composed of scientists, engineers and scholars of the highest repute and appropriate expertise, of both women and men in different age groups, ensuring a diversity of research areas and acting in their personal capacity, independent of extraneous interests.

The members of the Scientific Council shall be appointed by the Commission, following an independent and transparent procedure for their identification agreed with the Scientific Council, including a consultation of the scientific community and a report to the European Parliament and the Council.

Their term of office shall be limited to four years, renewable once, on the basis of a rotating system which shall ensure the continuity of the work of the Scientific Council.

2. The Scientific Council shall establish:

- (a) the overall strategy for the ERC;
- (b) the work programme for the implementation of the ERC activities;
- (c) the methods and procedures for peer review and proposal evaluation on the basis of which the proposals to be funded are determined;
- (d) its position on any matter which from a scientific perspective may enhance achievements and impact of the ERC and the quality of the research carried out;
- (e) a code of conduct addressing, inter alia, the avoidance of conflict of interests.

The Commission shall depart from the positions established by the Scientific Council in accordance with points (a), (c), (d), and (e) of the first subparagraph only when it considers that the provisions of this Decision have not been respected. In that case, the Commission shall adopt measures to maintain continuity in the implementation of the specific programme and the achievements of its objectives, setting out the points of departure from the Scientific Council positions and duly motivating them.

3. The Scientific Council shall act in accordance with the mandate set out in section 1.1 of Part I of Annex I.

4. The Scientific Council shall act exclusively in the interest of achieving the specific objective "The European Research Council (ERC)", referred to in point (a) of Article 3(1), according to the principles set out in Article 6(4). It shall act with integrity and probity and carry out its work efficiently and with the greatest possible transparency.

Article 8

Dedicated implementation structure

1. The dedicated implementation structure shall be responsible for the administrative implementation and programme execution, as described in section 1.2 of Part I of Annex I. It shall support the Scientific Council in the conduct of all of its tasks.

2. The Commission shall ensure that the dedicated implementation structure follows strictly, efficiently and with the necessary flexibility the objectives and requirements of the ERC alone.

TITLE III

FINAL PROVISIONS

Article 9

Monitoring and information on implementation

1. The Commission shall annually monitor and report on the implementation of Horizon 2020 in accordance with Article 31 of Regulation (EU) No 1291/2013 and Annex III to this Decision.

2. The Commission shall regularly inform the Committee referred to in Article 10 of the overall progress of the implementation of the indirect actions of the specific programme to allow the Committee to provide early appropriate input on the preparation of the work programmes, in particular the multi-annual approach and strategic orientations, and shall provide it with timely information on all actions proposed or funded under Horizon 2020 as specified in Annex IV.

Article 10

Committee procedure

1. The Commission shall be assisted by a committee (the Programme Committee). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. The committee shall meet in different configurations as set out in Annex V, having regard to the subject matter to be discussed.

3. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

5. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Article 11

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 3(2) shall be conferred on the Commission for the duration of Horizon 2020.

3. The delegation of power referred to in Article 3(2) may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it to the Council.

5. A delegated act adopted pursuant to Article 3(2) shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by one month at the initiative of the Council.

6. The European Parliament shall be informed of the adoption of delegated acts by the Commission, or any objection formulated to them, or of the revocation of the delegation of powers by the Council.

Article 12

Repeal and transitional provisions

1. Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC are repealed with effect from 1 January 2014.

2. However, actions initiated under the Decisions referred to in paragraph 1 of this Article and financial obligations related to actions pursued under those Decisions shall continue to be governed by those Decisions until their completion. Where necessary, any remaining tasks of the Committees established by the Decisions referred to in paragraph 1 of this Article shall be undertaken by the Committee referred to in Article 10.

3. The financial allocation for the specific programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the specific programme and the measures covered by Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC.

Article 13

Entry into force

This Decision shall enter into force on the third 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, 3 December 2013.

For the Council

The President

E. GUSTAS

ANNEX I

BROAD LINES OF THE ACTIVITIES**Common elements for the indirect actions**

1. PROGRAMMING

1.1. *General*

Regulation (EU) No 1291/2013 provides a set of principles in order to foster a programmatic approach whereby activities contribute in a strategic and integrated way to its objectives and in order to ensure strong complementarities with other related policies and programmes across the Union.

The indirect actions of Horizon 2020 will be implemented through the forms of funding provided for in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾, in particular grants, prizes, procurement and financial instruments. All forms of funding will be used in a flexible manner across all general and specific objectives of Horizon 2020, with their use being determined on the basis of the needs and the specificities of the particular specific objective.

Particular attention will be paid to ensuring a balanced approach to research and innovation, which is not only limited to the development of new products and services on the basis of scientific and technological breakthroughs, but which also incorporates aspects such as the use of existing technologies in novel applications, continuous improvement and non-technological and social innovation. Only a holistic approach to innovation can at the same time tackle societal challenges and give rise to new competitive businesses and industries.

In particular for the priority "Societal challenges" and the specific objective "Leadership in enabling and industrial technologies", there will be a particular emphasis on research and innovation activities complemented with activities which operate close to the end-users and the market, such as demonstration, piloting or proof-of-concept. This will also include, where appropriate, activities in support of social innovation, and support to demand side approaches such as pre-standardisation or pre-commercial procurement, procurement of innovative solutions, standardisation and other user-centered measures to help accelerate the deployment and diffusion of innovative products and services into the market. In addition, there will be sufficient room for bottom-up approaches to call for proposals, and activities in work programmes will be defined in broad terms. There will be open, light and fast schemes under each of the challenges and technologies to provide Europe's best researchers, entrepreneurs and enterprises with the opportunity to put forward breakthrough solutions of their choice.

Detailed priority setting during the implementation of Horizon 2020 will entail a strategic approach to programming of research, using modes of governance aligning closely with policy development yet cutting across the boundaries of traditional sectoral policies. This will be based on sound evidence, analysis and foresight, with progress measured against a robust set of performance indicators. This cross-cutting approach to programming and governance will allow effective coordination between all specific objectives of Horizon 2020 and will allow to address challenges which cut across them, such as sustainability, climate change, social sciences and humanities or marine sciences and technologies.

Priority setting will equally be based on a wide range of inputs and advice. It will include, where appropriate, groups of independent experts set up specifically to advise on the implementation of Horizon 2020 or any of its specific objectives. These expert groups shall show the appropriate level of expertise and knowledge in the covered areas and a variety of professional backgrounds, including academia, industry and civil society involvement. Advice on the identification and design of strategic priorities by the European Research Area and Innovation Committee (ERAC), other ERA-related Groups and the Enterprise Policy Group (EPG) shall, where appropriate, also be taken into consideration.

Priority setting may also take into account the strategic research agendas of European Technology Platforms, Joint Programming Initiatives or inputs from the European Innovation Partnerships. Where appropriate, public-public partnerships and public-private partnerships supported through Horizon 2020 will also contribute to the priority setting process and to the implementation, in line with Regulation (EU) No 1291/2013. Regular interactions with end-users, citizens and civil society organisations, through appropriate methodologies such as consensus conferences, participatory technology assessments or direct engagement in research and innovation processes, will also be a cornerstone of the priority setting process.

⁽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).

As Horizon 2020 is a programme for seven years, the economic, societal and policy context in which it will operate may change significantly during its life-time. Horizon 2020 needs to be able to adapt to these changes. Under each of the specific objectives, there will therefore be the possibility to include support for activities beyond the descriptions set out below, where this is duly justified to address major developments, policy needs or unforeseen events.

Activities supported under the different Parts and their specific objectives should be implemented in a way that ensures complementarity and consistency among them, as appropriate.

1.2. *Access to risk finance*

Horizon 2020 will help companies and other types of entities gain access to loans, guarantees and equity finance via two facilities.

The Debt facility will provide loans to single beneficiaries for investment in research and innovation; guarantees to financial intermediaries making loans to beneficiaries; combinations of loans and guarantees, and guarantees or counter-guarantees for national, regional and local debt-financing schemes. It will include a SME window targeting research and innovation (R&I) driven SMEs with loan amounts that complement finance to SMEs by the Loan Guarantee Facility under the Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014-2020).

The Equity facility will provide venture and/or mezzanine capital to individual enterprises in the early stage (start-up window). The facility will also have the possibility to make expansion and growth-stage investments in conjunction with the Equity Facility for Growth under COSME, including in funds-of-funds.

These facilities will be central to the specific objective 'Access to risk finance' but may, where relevant, also be used across all other specific objectives of Horizon 2020.

The Equity facility and the SME window of the Debt facility will be implemented as part of two Union financial instruments that provide equity and debt to support R&I and growth of SMEs, in conjunction with the equity and debt facilities under COSME.

1.3. *Communication, exploitation and dissemination*

A key added value of research and innovation funded at the Union level is the possibility to disseminate, exploit and communicate results on a continent-wide scale to enhance their impact. Horizon 2020 will therefore include, under all of its specific objectives, dedicated support to dissemination (including through open access to scientific publications), communication and dialogue actions, with a strong emphasis on communicating results to end-users, citizens, academia, civil society organisations, industry and policy makers. To this extent, Horizon 2020 may make use of networks for information transfer. Communication activities undertaken in the context of Horizon 2020 will promote the fact that the results were obtained with the support of Union funding and will also seek to raise public awareness on the importance of research and innovation by means of publications, events, knowledge repositories, databases, websites or a targeted use of social media.

2. COMPLEMENTARITIES, CROSS-CUTTING ISSUES AND SUPPORT MEASURES

Horizon 2020 is structured around the objectives defined for its three priorities: "Excellent science", "Industrial leadership" and "Societal challenges". Particular attention will be paid to ensuring adequate coordination between these priorities and fully exploiting the synergies generated between all specific objectives to maximise their combined impact on the higher level policy objectives of the Union. The objectives of Horizon 2020 will therefore be addressed through a strong emphasis on finding efficient solutions, going well beyond an approach based simply on traditional scientific and technological disciplines and economic sectors.

Cross-cutting actions will be promoted across Part I 'Excellent Science', Part II 'Industrial Leadership', Part III 'Societal Challenges', Part IV 'Spreading excellence and widening participation' and Part V 'Science with and for society' to develop jointly new knowledge, future and emerging technologies, research infrastructures and key competences. Research infrastructures will also be leveraged for broader usage in society, for example in public services, promotion of science, civil security and culture. Furthermore, priority setting during implementation for the direct actions of the JRC and the activities of the European Institute of Innovation and Technology (EIT) will be adequately coordinated with the other parts of Horizon 2020.

Furthermore, in many cases, contributing effectively to the objectives of Europe 2020 and the flagship initiative "Innovation Union" will require solutions to be developed which are interdisciplinary in nature and therefore cut across multiple specific objectives of Horizon 2020. Horizon 2020 includes specific provisions to incentivise such cross-cutting actions, including by an efficient bundling of budgets. This includes also for instance the possibility for the priority "Societal challenges" and the specific objective "Leadership in enabling and industrial technologies" to make use of the provisions for financial instruments and the dedicated SME instrument.

Cross-cutting actions will also be vital in stimulating the interactions between the priority "Societal challenges" and the specific objective "Leadership in enabling and industrial technologies", needed to generate major technological breakthroughs. Examples of where such interactions may be developed are: the domain of eHealth, smart grids, intelligent transport systems, mainstreaming of climate actions, nanomedicine, advanced materials for lightweight vehicles or the development of bio-based industrial processes and products. Strong synergies will therefore be fostered between the priority "Societal challenges" and the development of generic enabling and industrial technologies. This will be explicitly taken into account in developing the multi-annual strategies and the priority setting for each of these specific objectives. It will require that stakeholders representing the different perspectives are fully involved in the implementation, and in many cases it will also require actions which bring together funding from the specific objective "Leadership in enabling and industrial technologies" and the relevant specific objectives of the priority "Societal challenges".

Particular attention will also be paid to the coordination of activities funded through Horizon 2020 with those supported under other Union funding programmes, such as the Common Agricultural Policy, the Common Fisheries Policy, the Life Programme, the Erasmus+ programme or the Health for Growth Programme and the Union's external and development funding programmes. This includes an appropriate articulation with the cohesion policy in the context of national and regional R&I strategies for smart specialisation, where support to capacity-building for research and innovation at regional level may act as a 'stairway to excellence', the establishment of regional centres of excellence may help close the innovation divide in Europe, or support to large-scale demonstration and pilot line projects may aid in achieving the objective of generating industrial leadership in Europe.

A. Social sciences and humanities

Social sciences and humanities research will be fully integrated into each of the specific objectives of Horizon 2020. This will include ample opportunities for supporting such research through the specific objectives "The European Research Council (ERC)", "Marie Skłodowska-Curie actions" or "Research infrastructures".

To this end, social sciences and humanities will also be mainstreamed as an essential element of the activities needed to enhance industrial leadership and to tackle each of the societal challenges. For the latter, this includes: understanding the determinants of health and optimising the effectiveness of healthcare provision; supporting policies empowering rural areas; researching and preserving Europe's cultural heritage and richness; promoting informed consumer choices; creating an inclusive digital ecosystem based on knowledge and information; robust decision making on energy policy and in ensuring a consumer-friendly European electricity grid and a transition to a sustainable energy system; supporting evidence-based transport policy and foresight; supporting climate change mitigation and adaptation strategies, resource efficiency initiatives and measures towards a green and sustainable economy; and understanding cultural and socio-economic aspects of security, risk and management issues (including legal and human rights aspects).

In addition, the specific objective 'Europe in a changing world - Inclusive, innovative and reflective societies' will support social sciences and humanities research into issues of a horizontal nature such as the creation of smart and sustainable growth, social, cultural and behavioural transformations in European societies, social innovation, innovation in the public sector or the position of Europe as a global actor.

B. Science and society

The relationship and interaction between science and society as well as the promotion of responsible research and innovation, science education, science communication and culture shall be deepened and public confidence in science and innovation reinforced by activities of Horizon 2020 favouring the informed engagement of and a dialogue with citizens and civil society in research and innovation.

C. Gender

Promoting gender equality in science and innovation is a commitment of the Union. In Horizon 2020, gender will be addressed as a cross-cutting issue in order to rectify imbalances between women and men and to integrate a gender dimension in research and innovation programming and content.

D. SMEs

Horizon 2020 will encourage and support the increased participation of SMEs in an integrated way across all specific objectives.

In addition to the establishment of better conditions for SMEs to participate in Horizon 2020, in accordance with Article 22 of Regulation (EU) No 1291/2013, dedicated measures set out under the specific objective 'Innovation in SMEs' (dedicated SME instrument) shall be applied in the specific objective 'Leadership in enabling and industrial technologies' and in the priority 'Societal challenges'. This integrated approach should lead to a minimum of 20 % of their total combined budgets going to SMEs.

Particular attention shall be paid to the adequate representation of SMEs in public-private partnerships referred to in Article 25 of Regulation (EU) No 1291/2013.

E. Fast Track to Innovation (FTI)

FTI will reduce the time from idea to market significantly and is expected to increase the participation of industry and first-time applicants in Horizon 2020.

FTI, as set out in Article 24 of Regulation (EU) No 1291/2013, will support innovation actions under the specific objective "Leadership in enabling and industrial technologies" and under the priority "Societal challenges", with a bottom-up-driven logic on the basis of a continuously open call, and "time to grant" not exceeding six months. FTI will contribute to innovation in Europe, underpinning the Union's competitiveness.

F. Widening participation

The research and innovation potential of the Member States, despite some recent convergence, remains very different, with large gaps between "innovation leaders" and "modest innovators". Activities shall help close the research and innovation divide in Europe by promoting synergies with the European Structural and Investment Funds (ESI Funds) and also by specific measures to unlock excellence in low performing research, development and innovation (RDI) regions, thereby widening participation in Horizon 2020 and contributing to the realisation of the ERA.

G. International cooperation

International cooperation with partners in third countries is necessary to address effectively many specific objectives defined in Horizon 2020, in particular those relating to Union external and development policies and international commitments. This is the case for all the societal challenges addressed by Horizon 2020, which are common in nature. International cooperation is also essential for frontier and basic research in order to capture the benefits from emerging science and technology opportunities. Promoting R&I staff mobility at an international scale is therefore crucial to enhance this global cooperation. Activities at international level are equally important to enhance the competitiveness of European industry by promoting the take-up and trade of novel technologies, for instance through the development of worldwide standards and interoperability guidelines, and by promoting the acceptance and deployment of European solutions outside Europe. All international activities should be supported by an efficient and fair knowledge transfer framework which is critical for innovation and growth.

The focus of international cooperation in Horizon 2020 will be on cooperation with three major country groupings:

- (1) industrialised and emerging economies;
- (2) enlargement and neighbourhood countries; and
- (3) developing countries.

Where appropriate, Horizon 2020 will promote cooperation at bi-regional or multilateral level. International cooperation in research and innovation is a key aspect of the Union's global commitments and has an important role to play in the Union's partnership with developing countries, such as progressing towards the achievement of the United Nations' Millennium Development Goals.

Article 27 of Regulation (EU) No 1291/2013 sets out the general principles for participation of legal entities from third countries and of international organisations. As research and innovation in general benefit largely from an openness towards third countries, Horizon 2020 will continue with the principle of general openness while encouraging reciprocal access to third country programmes. Where appropriate, and in particular to safeguard European interest as regards intellectual property, a more cautious approach may be adopted.

In addition, a range of targeted actions will be implemented taking a strategic approach to international cooperation on the basis of common interest, priorities and mutual benefit and promoting coordination and synergies with Member States' activities. This will include a mechanism for supporting joint calls and the possibility of co-funding programmes together with third countries or international organisations. Synergies with other Union policies will be sought.

Strategic advice from the Strategic Forum for International Scientific and Technological Cooperation (SFIC) will continue to be sought.

Without prejudice to other collaboration opportunities, examples of areas where such strategic international cooperation may be developed are:

- (a) the continuation of the European & Developing Countries Clinical Trials Partnership (EDCTP2) on clinical trials for medical interventions against HIV, malaria, tuberculosis and neglected diseases;
- (b) support by way of an annual subscription to the Human Frontier Science Programme (HFSP) to allow non-G7 Member States to fully benefit from the funding provided by the HFSP;
- (c) international consortium on rare diseases, with a number of Member States and third countries. The aim of this initiative is to develop by 2020 diagnostic tests for most rare diseases and 200 new therapies for rare diseases;
- (d) support to the activities of the International Knowledge-Based Bio-Economy Forum and the EU-US Task Force on Biotechnology Research as well as collaborative links with relevant international organisations and initiatives, such as global research alliances on agricultural greenhouse gases and on animal health;
- (e) contribution to multilateral processes and initiatives, such as the Intergovernmental Panel on Climate Change (IPCC), the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES), and the Group on Earth Observations (GEO);
- (f) the Space Dialogues between the Union and the United States and Russia, the two major space faring nations, is an extremely valuable one and forms the basis for the establishment of strategic cooperation in space partnerships;
- (g) the implementing arrangement between the Union and the United States for cooperative activities in the field of Homeland Security/Civil Security/Research, signed on 18 November 2010;
- (h) cooperation with developing countries, including from Sub-Saharan Africa, in the field of decentralised energy production for poverty alleviation;
- (i) continuation of research collaboration with Brazil on new generation of biofuels and other uses of biomass.

In addition, dedicated horizontal activities will be supported in order to ensure the coherent and effective development of international cooperation across Horizon 2020.

H. Sustainable development and climate change

Horizon 2020 will encourage and support activities towards exploiting Europe's leadership in the race to develop new processes and technologies promoting sustainable development, in a broad sense, and combating climate change. Such a horizontal approach, fully integrated in all Horizon 2020 priorities, will help the Union to prosper in a low-carbon, resource-constrained world while building a resource-efficient, sustainable and competitive economy.

I. Bridging from discovery to market application

Bridging actions throughout Horizon 2020 are aimed at bringing discovery to market application, leading to exploitation and commercialisation of ideas whenever appropriate. The actions should be based on a broad innovation concept and stimulate cross-sectoral innovation.

J. Cross-cutting support measures

The cross-cutting issues will be supported by a number of horizontal support measures, including support to: enhancing the attractiveness of the research profession, including the general principles of the European Charter for Researchers, as set out in the Commission Recommendation of 11 March 2005 ⁽¹⁾; strengthening the evidence base and the development of and support for ERA (including the five ERA initiatives) and the flagship initiative "Innovation Union"; recognising top performing Horizon 2020 beneficiaries and projects in the different fields through symbolic awards; improving framework conditions in support of the flagship initiative "Innovation Union", including the principles of the Commission Recommendation on the management of intellectual property ⁽²⁾, and exploring the possibility of setting up an European Intellectual Property Rights valorisation instrument; and administration and coordination of international networks for excellent researchers and innovators, such as European Cooperation in Science and Technology (COST).

3. PARTNERING

For achieving sustainable growth in Europe, the contribution of public and private players must be optimised. This is essential for consolidating the ERA and for delivering on the "Innovation Union", "the Digital Agenda for Europe", and other Europe 2020 flagship initiatives. Furthermore, responsible research and innovation requires that best solutions be derived from interactions between partners having various perspectives but common interests.

Horizon 2020 includes scope and a clear set of criteria for setting up public-public and public-private partnerships. Public-private partnerships can be based on a contractual arrangement between public and private actors and can in limited cases be institutionalised public-private partnerships, such as Joint Technology Initiatives (JTIs) and other joint undertakings.

Existing public-public and public-private partnerships may receive support from Horizon 2020, provided they address Horizon 2020 objectives, contribute to realising the ERA, meet the criteria laid down in Horizon 2020 and have shown to make significant progress under the Seventh Framework Programme.

Initiatives under Article 185 TFEU supported under the Sixth Framework Programme of the European Community for research, technological development and demonstration activities ("the Sixth Framework Programme"), adopted by Decision No 1513/2002/EC of the European Parliament and of the Council ⁽³⁾, and/or under the Seventh Framework Programme for which further support may be provided under the above conditions include: the European & Developing Countries Clinical Trials Partnership (EDCTP), Ambient Assisted Living Joint Programme (AAL), Baltic Sea Research and Development Programme (BONUS), the Eurostars Programme and the European Metrology Research Programme (EMRP). Further support may also be provided to the European Energy Research Alliance (EERA) established under the European Strategic Energy Technology Plan (SET Plan). Joint Programming Initiatives may be supported by Horizon 2020 through the instruments referred to in Article 26 of Regulation (EU) No 1291/2013, including through initiatives under Article 185 TFEU.

Joint Undertakings established in the Seventh Framework Programme under Article 187 TFEU for which further support may be provided under the above conditions are: the Innovative Medicines Initiative (IMI), Clean Sky, Single European Sky ATM Research (SESAR), the Fuel Cells and Hydrogen Joint Undertaking (FCH) and the Electronic Components and Systems for European Leadership Joint Technology Initiative (ECSEL).

Other public-private partnerships supported under the Seventh Framework Programme for which further support may be provided under the above conditions are: Factories of the Future, Energy-efficient Buildings (EeB), European Green Cars Initiative and Future Internet. Further support may also be provided to the European Industrial Initiatives (EII) established under the SET Plan.

Further public-public partnerships and public-private partnerships may be launched under Horizon 2020 where they meet the defined criteria.

⁽¹⁾ OJ L 75, 22.3.2005, p. 67.

⁽²⁾ Commission Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations (C(2008) 1329, of 10.4.2008).

⁽³⁾ 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).

PART I

EXCELLENT SCIENCE

1. EUROPEAN RESEARCH COUNCIL (ERC)

The ERC will promote world-class frontier research. Research at and beyond the frontiers of current understanding is both of critical importance to economic and social welfare, and an intrinsically risky venture, progressing on new and most challenging research areas and characterised by an absence of disciplinary boundaries.

In order to stimulate substantial advances at the frontiers of knowledge, the ERC will support individual teams to carry out research in any field of basic scientific and technological research which falls within the scope of Horizon 2020, including engineering, social sciences and the humanities. As appropriate, specific target groups (e.g. starting researchers/emerging teams) may be taken into account, following the objectives of the ERC and needs for efficient implementation. Particular attention will be paid to emerging and fast-growing areas at the frontier of knowledge and at the interface between disciplines.

Independent researchers of any age and gender, including starting researchers making the transition to being independent research leaders in their own right, from any country in the world will be supported to carry out their research in Europe.

The ERC shall give particular priority to assisting the best starting researchers with excellent ideas to make the transition to independence by providing adequate support at the critical stage when they are setting up or consolidating their own research team or programme. The ERC will also continue to provide appropriate levels of support for established researchers.

An "investigator-driven" approach will be followed. This means that the ERC will support projects carried out by researchers on subjects of their choice within the scope of calls for proposals. Proposals will be evaluated on the sole criterion of excellence as judged by peer review, taking account of excellence in new groups, starting researchers, as well as established teams, and paying particular attention to proposals which are highly pioneering and involve correspondingly high scientific risks.

The ERC will operate as an autonomous science-led funding body consisting of an independent Scientific Council, supported by a lean and cost-effective dedicated implementation structure.

The Scientific Council will establish the overall scientific strategy and will have full authority over decisions on the type of research to be funded.

The Scientific Council will establish the work programme to meet the ERC's objectives based on its scientific strategy as set out below. It will establish the necessary international cooperation initiatives in line with its scientific strategy, including outreach activities to increase the visibility of the ERC for the best researchers from the rest of the world.

The Scientific Council will continuously monitor the operation of the ERC and its evaluation procedures and consider how best to achieve its broader objectives. It will develop the ERC's mix of support measures as necessary to respond to emerging needs.

The ERC will aim for excellence in its own operations. The administrative and staff costs for the ERC relating to the Scientific Council and the dedicated implementation structure will be consistent with lean and cost-effective management. Administrative expenditure will be kept to a minimum, consistent with ensuring the resources necessary for world-class implementation, in order to maximise funding for frontier research.

ERC awards will be made and grants operated according to simple, transparent procedures that maintain the focus on excellence, encourage initiative and combine flexibility with accountability. The ERC will continuously look for further ways to simplify and improve its procedures in order to ensure that these principles are met.

Given the unique structure and role of the ERC as a science-led funding body the implementation and management of the activities of the ERC will be reviewed and evaluated on an ongoing basis with the full involvement of the Scientific Council to assess its achievements and to adjust and improve procedures and structures on the basis of experience.

1.1. *The Scientific Council*

In order to carry out its tasks, as set out in Article 7, the Scientific Council will:

(1) Scientific strategy:

- establish the overall scientific strategy for the ERC, in the light of scientific opportunities and European scientific needs;
- on a permanent basis, in accordance with the scientific strategy, ensure the establishment of the work programme and necessary modifications, including calls for proposals and criteria and, as may be required, the definition of specific target groups (e.g. starting/emerging teams);

(2) Scientific management, monitoring and quality control:

- as appropriate, from a scientific perspective, establish positions on implementation and management of calls for proposals, evaluation criteria, peer review processes including the selection of experts, the methods for peer review and proposal evaluation and the necessary implementing rules and guidelines, on the basis of which the proposal to be funded will be determined under the supervision of the Scientific Council, and establish positions on any other matter affecting the achievements and impact of the ERC's activities and the quality of the research carried out, including the principal provisions of the ERC Model Grant Agreement;
- monitor quality of operations and evaluate implementation and achievements and make recommendations for corrective or future actions.

(3) Communication and dissemination:

- assure transparency in communication with the scientific community, key stakeholders and the general public on the ERC's activities and achievements;
- regularly report to the Commission on its own activities.

The Scientific Council has full authority over decisions on the type of research to be funded and is the guarantor of the quality of the activity from the scientific perspective.

Where appropriate, the Scientific Council shall consult with the scientific, engineering and scholarly community, regional and national research funding agencies and other stakeholders.

The members of the Scientific Council shall be compensated for the tasks they perform by means of an honorarium and, where appropriate, reimbursement of travel and subsistence expenses.

The President of the ERC will reside in Brussels for the duration of the appointment and devote most of his/her working time ⁽¹⁾ to ERC business. He/she will be remunerated at a level commensurate with the Commission's top management.

The Scientific Council shall elect from amongst its members three Vice-Chairs who shall assist the President in its representation and the organisation of its work. They may also hold the title of Vice-President of the ERC.

Support will be provided to the three Vice-Chairs to ensure adequate local administrative assistance at their home institutes.

1.2. *Dedicated implementation structure*

The dedicated implementation structure will be responsible for all aspects of administrative implementation and programme execution, as provided for in the work programme. It will, in particular, implement the evaluation procedures, peer review and selection process in accordance with the strategy established by the Scientific Council and will ensure the financial and scientific management of the grants.

The dedicated implementation structure will support the Scientific Council in the conduct of all of its tasks as set out above, provide access to the necessary documents and data in its possession, and keep the Scientific Council informed of its activities.

⁽¹⁾ In principle at least 80 %.

In order to ensure an effective liaison with the dedicated implementation structure on strategy and operational matters, the leadership of the Scientific Council and the Director of the dedicated implementation structure will hold regular coordination meetings.

The management of the ERC will be carried out by staff recruited for that purpose, including, where necessary, officials from the Union institutions, and will cover only the real administrative needs in order to assure the stability and continuity necessary for an effective administration.

1.3. *Role of the Commission*

In order to fulfil its responsibilities as set out in Articles 6, 7 and 8 the Commission will:

- ensure the continuity and renewal of the Scientific Council and provide support for a standing Identification Committee for the identification of future Scientific Council members;
- ensure the continuity of the dedicated implementation structure and the delegation of tasks and responsibilities to it taking into account the views of the Scientific Council;
- appoint the Director and the Senior Staff of the dedicated implementation structure taking into account the views of the Scientific Council;
- ensure the timely adoption of the work programme, the positions regarding implementing methodology and the necessary implementing rules as provided by the ERC Rules of Submission and the ERC Model Grant Agreement, taking into account the positions of the Scientific Council;
- regularly inform and consult the Programme Committee on the implementation of the ERC activities.

2. FUTURE AND EMERGING TECHNOLOGIES

Future and Emerging Technologies (FET) activities will concretise different logics of intervention, from completely open to varying degrees of structuring of topics, communities and funding, structured around three strands - FET Open, FET Proactive and FET Flagships.

2.1. *FET Open: fostering novel ideas*

Supporting a large set of early stage, high-risk visionary science and technology collaborative research projects is necessary for the successful exploration of new foundations for radically new future scientific knowledge and technologies. By being explicitly non-topical and non-prescriptive, this activity allows for new ideas, whenever they arise and wherever they come from, within the broadest spectrum of themes and disciplines, and it actively stimulates creative out-of-the-box thinking. Nurturing such fragile ideas requires an agile, risk-friendly and highly interdisciplinary research approach, going well beyond the strictly technological realms. Attracting and stimulating the participation of new high-potential actors in research and innovation, such as young researchers and high-tech SMEs, is also important for nurturing the scientific and industrial leaders of the future.

2.2. *FET Proactive: nurturing emerging themes and communities*

Novel areas and themes need to be matured, by working towards structuring emerging communities and supporting the design and development of transformative research themes. The main benefits of this structuring yet explorative approach are emerging novel areas that are not yet ready for inclusion in industry research roadmaps, and building up and structuring of research communities around them. It makes the step from collaborations between a small number of researchers, to a cluster of projects that each address aspects of a research theme and exchange results. This will be done in close association with the priorities "Industrial leadership" and "Societal challenges".

2.3. *FET Flagships: pursuing grand interdisciplinary scientific and technological challenges*

Research initiatives within this strand are science- and technology-driven, large-scale, multidisciplinary and built around a visionary unifying goal. They tackle grand science and technology challenges requiring cooperation among a range of disciplines, communities and programmes. The scientific and technological advance should provide a strong and broad basis for future innovation and economic exploitation, as well as novel benefits for society of a potential high impact. The overarching nature and magnitude implies that they can only be realised through a collaborative long-term and sustained effort.

2.4. *Specific implementation aspects*

A FET Advisory Board, including scientists and engineers of the highest repute and expertise, will provide stakeholder input on the overall scientific and technological strategy, including advice on the definition of the work programme.

FET will continue to be science- and technology-led, supported by a light and efficient implementation structure. Simple administrative procedures will be adopted to maintain the focus on excellence in science-driven technological innovation, encourage initiative and combine speed in decision-making and flexibility with accountability. The most appropriate approaches will be used for probing the FET research landscape (e.g. portfolio analysis) and for involving communities of stakeholders (e.g. consultations). The aim will be for continuous improvement and for the search for further ways to simplify and improve procedures in order to ensure that these principles are met. Assessments of the effectiveness and impact of the FET activities will be carried out, complementing those at programme level.

Given its mission of fostering science-driven research towards future technologies, FET strives to bring together actors from science, technology and innovation, including, where appropriate, users, and to the extent possible from both public and private sectors. FET should therefore play an active and catalytic role in stimulating new thinking, new practices and new collaborations.

FET Open groups activities for an entirely bottom-up search for promising new ideas. The high risk implied by each such idea is countered by exploring many of them. Efficiency in terms of time and resources, low opportunity cost for the proposers, and undisputable openness to non-conventional and interdisciplinary ideas are the key characteristics for these activities. Light and fast continuously open submission schemes will seek for promising new high-risk research ideas and will include tracks for new and high-potential innovation actors such as young researchers and high-tech SMEs. To complement FET Open activities, activities under the priorities "Industrial Leadership" and "Societal Challenges" may foster radically new use of knowledge and technologies.

FET Proactive will regularly open calls on several high-risk, high-potential innovative themes, funded at such a level that several projects can be selected. These projects will be supported by community building actions that foster activities such as joint events, development of new curricula and research roadmaps. The selection of themes will take into account excellence in science-driven research towards future technologies, potential for creating a critical mass and impact on science and technology.

A number of large-scale focused initiatives (FET Flagships) could be implemented subject to the positive outcome of FET preparatory projects. They should be based on open partnerships that enable the voluntary combination of Union, national and private contributions, with a balanced governance that allows programme owners to have appropriate influence, as well as a large degree of autonomy and flexibility in the implementation, enabling the Flagship to follow closely a broadly supported research roadmap. The selection of topics to be implemented as Flagships will be based on scientific and technological excellence and will take into account the unifying goal, the potential impact, the integration of stakeholders and resources under a cohesive research roadmap and, where appropriate, the support from stakeholders and national/regional research programmes. These activities shall be realised using the existing funding instruments.

Activities in the three FET strands are complemented by networking and community-based activities for creating a fertile and vibrant European base for science-driven research towards future technologies. They will support the future developments of the FET activities, foster the debate on implications of new technologies, and accelerate impact.

3. MARIE SKŁODOWSKA-CURIE ACTIONS

3.1. *Fostering new skills by means of excellent initial training of researchers*

Europe needs a strong and creative human resource base, mobile across countries and sectors, with the right combination of skills to innovate and to convert knowledge and ideas into products and services for economic and social benefit.

This will be achieved in particular by structuring and raising excellence in a substantial share of the high-quality initial training of early stage researchers and doctoral candidates throughout Member States and associated countries including, where appropriate, participation from third countries. By equipping early stage researchers with a diversity of skills that will allow them to face current and future challenges, the next generation of researchers will benefit from enhanced career perspectives in both public and private sectors, thereby enhancing also the attraction of young people to research careers.

The action will be implemented through support to Union-wide competitively selected research training programmes implemented by partnerships of universities, research institutions, research infrastructures, businesses, SMEs and other socio-economic actors from different countries across Europe and beyond. Single institutions able to provide the same enriching environment will also be supported. Flexibility in the implementation of the objectives will have to be ensured in order to address the different needs. Typically, successful partnerships will take the form of research training networks that may offer innovative types of training such as joint or multiple doctoral degrees or industrial doctorates, while single institutions will usually be involved in innovative doctoral programmes. Industrial doctorates are an important element to foster an innovative spirit among researchers and create closer links between industry and academia. In this frame, support is foreseen for the best early stage researchers from any country to join these excellent programmes, which may include, inter alia, mentoring to transfer knowledge and experience.

These training programmes will address the development and broadening of core research competences, while equipping researchers with a creative mind, an entrepreneurial outlook and innovation skills that will match the future needs of the labour market. The programmes will also provide training in transferable competences such as team-work, risk-taking, project management, standardisation, entrepreneurship, ethics, intellectual property rights (IPR), communication and societal outreach which are essential for the generation, development, commercialisation and diffusion of innovation.

3.2. Nurturing excellence by means of cross-border and cross-sector mobility

Europe has to be attractive for the best researchers, European and non-European alike. This will be achieved in particular by supporting attractive career opportunities for experienced researchers in both public and private sectors and by encouraging them to move between countries, sectors and disciplines to enhance their creative and innovative potential.

Funding will be given to the best or most promising experienced researchers, regardless of their nationality, who want to develop their skills through a transnational or international mobility experience. They can be supported along all the different stages of their career, including the most junior ones just after their doctoral degree or equivalent experience. These researchers will receive funding on the condition that they move from one country to another to broaden or deepen their competences in universities, research institutions, research infrastructures, businesses, SMEs or other socio-economic actors of their choice (e.g. civil society organisations), working on research and innovation projects fitting their personal needs and interests. They will be encouraged to move from public to private sector or vice versa through the support of temporary postings. This should enhance the innovativeness of the private sector and promote cross-sector mobility. Part-time opportunities allowing combined positions in both public and private sectors will also be supported to enhance the transfer of knowledge between sectors and also to encourage the creation of start-ups. Such tailor-made research opportunities will help promising researchers to become fully independent and to facilitate career moves between public and private sectors.

In order to fully exploit the existing potential of researchers, possibilities to be trained and to acquire new knowledge in a third-country high-level research institution, to restart a research career after a break and to (re)integrate researchers into a longer term research position in Europe, including their country of origin, after a transnational/international mobility experience covering return and reintegration aspects will also be supported.

3.3. Stimulating innovation by means of cross-fertilisation of knowledge

Societal challenges are becoming more and more global and cross-border and cross-sector collaborations are crucial to successfully face them. Sharing of knowledge and ideas from research to market (and vice versa) is therefore vital and can only be achieved through the connection of people. This will be promoted through the support of flexible exchanges of highly skilled R&I staff between sectors, countries and disciplines.

European funding will support exchanges of R&I staff within partnerships of universities, research institutions, research infrastructures, businesses, SMEs and other socio-economic actors among Europe, as well as between Europe and third countries to reinforce international cooperation. It will be open to R&I staff at all career levels, from the most junior (post-graduate) to the most senior (management), including also administrative and technical staff.

3.4. Increasing structural impact by co-funding the activities

Stimulating regional, national or international programmes to foster excellence and to spread best practices of the Marie Skłodowska-Curie Actions in terms of European-wide mobility possibilities for researchers' training, career development and staff exchange will increase the numerical and structural impact of the Marie Skłodowska-Curie Actions. This will also enhance the attractiveness of the centres of excellence across Europe.

This will be achieved by co-funding new or existing regional, national and international programmes, both public and private, to open up to and provide for international, intersectoral and interdisciplinary research training, as well as cross-border and cross-sector mobility of R&I staff at all stages of their career.

This will allow the exploitation of synergies between Union actions and those at regional and national level, combating fragmentation in terms of objectives, evaluation methods and working conditions of researchers. In the framework of co-funding activities, use of employment contracts will be strongly promoted.

3.5. *Specific support and policy actions*

To meet the challenge efficiently it will be essential to monitor progress. The Marie Skłodowska-Curie actions will support the development of indicators and the analysis of data related to researchers' mobility, skills, careers and gender equality with a view to identifying gaps and barriers in these actions and to increasing their impact. These activities will be implemented by seeking synergies and close coordination with the policy support actions on researchers, their employers and funders carried out under the specific objective 'Europe in a changing world - Inclusive, innovative and reflective societies'. Specific actions will be funded to support initiatives to raise awareness on the importance of the research career and to disseminate research and innovation results emanating from work supported by the Marie Skłodowska-Curie actions.

To further increase the impact of the Marie Skłodowska-Curie actions, the networking between Marie Skłodowska-Curie researchers (current and past) will be enhanced through a strategy of alumni services. These will range from supporting a forum for contact and exchange between the researchers, providing possibilities for exploring collaborations and job opportunities, to the organisation of joint events and the involvement of the fellows in outreach activities as ambassadors for the Marie Skłodowska-Curie actions and for the ERA.

3.6. *Specific implementation aspects*

The Marie Skłodowska-Curie actions will be open to training and career development activities within all domains of research and innovation addressed under the TFEU, from basic research up to market take-up and innovation services. Research and innovation fields as well as sectors will be chosen freely by the applicants.

To benefit from the worldwide knowledge base, the Marie Skłodowska-Curie actions will be open to R&I staff, as well as to universities, research institutions, research infrastructures, businesses and other socio-economic actors from all countries, including third countries, under the conditions defined in Regulation (EU) No 1290/2013.

Throughout all the activities described above, attention will be paid to encourage a strong participation of enterprises, in particular SMEs, as well as of other socio-economic actors in the successful implementation and impact of the Marie Skłodowska-Curie actions. A long-term collaboration between higher education, research organisations and the public and private sectors, taking into account the protection of intellectual property rights, is promoted throughout all Marie Skłodowska-Curie actions.

The Marie Skłodowska-Curie actions will be developed in close synergy with other programmes supporting these policy objectives, including the Erasmus+ programme and the Knowledge and Innovation Communities (KICs) of the EIT.

The possibility is retained, if specific needs arise, to target certain activities under the Marie Skłodowska-Curie actions regarding specific societal challenges, types of research and innovation institutions, or geographical locations in order to respond to the evolution of Europe's requirements in terms of skills, research training, career development and knowledge sharing.

In order to be open to all sources of talent, general measures to overcome any distortions in the access to the grants will be ensured, for example by encouraging equal opportunities for male and female researchers in all Marie Skłodowska-Curie actions and by benchmarking gender participation. In addition, the Marie Skłodowska-Curie actions will support researchers to get established on a more stable career path and to ensure that they can achieve an appropriate work/life balance, taking into account their family situation, and to facilitate resuming a research career after a break. The principles of the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers promoting open recruitment and attractive working conditions are recommended to be endorsed and applied by all funded participants.

To further enhance dissemination and public engagement, beneficiaries of the Marie Skłodowska-Curie actions may be required to plan suitable outreach activities to the general public. This plan will be assessed during the evaluation process as well as during the project follow-up.

4. RESEARCH INFRASTRUCTURES

The activities will aim at developing excellent European research infrastructures for 2020 and beyond, fostering their innovation potential and human resources and reinforcing European policy. Coordination with the cohesion funding sources will be pursued to ensure synergies and a coherent approach for the development of the research infrastructures. Synergies with the Marie Skłodowska-Curie actions will be encouraged.

4.1. *Developing the European research infrastructures for 2020 and beyond*

4.1.1. Developing new world-class research infrastructures

The aim is to facilitate and support the preparation, implementation, long-term sustainability and efficient operation of the research infrastructures identified by the European Strategy Forum on Research Infrastructures (ESFRI) and of other world-class research infrastructures, which will help Europe to respond to grand challenges in science, industry and society. This objective will address specifically those infrastructures that are planning to set up, are setting up or have set up their governance, e.g. on the basis of the European Research Infrastructure Consortium (ERIC) or any equivalent structure at European or international level.

The Union funding will contribute to, as appropriate:

- (a) the preparatory phase of future infrastructures (e.g. detailed construction plans, legal arrangements, multiannual planning, and early engagement of industry);
- (b) the implementation phase (e.g. research and development (R&D) and engineering work jointly with industry and users, and development of Regional Partner Facilities⁽¹⁾ aiming at a more balanced development of the ERA); and/or
- (c) the operation phase (e.g. access, data handling, outreach, training and international cooperation activities).

This activity will also support design studies for new research infrastructures through a bottom-up approach.

4.1.2. Integrating and opening existing national and regional research infrastructures of European interest

The aim is to open up, where appropriate, key national and regional research infrastructures to all European researchers, from both academia and industry, and to ensure the optimal use and joint development of these infrastructures.

The Union will support networks and clusters that bring together and integrate, on European scale, key national research infrastructures. Funding will be provided to support, in particular, the transnational and virtual access of researchers and the harmonisation and improvement of the services that the infrastructures provide.

4.1.3. Development, deployment and operation of ICT-based e-infrastructures⁽²⁾

The aim is to achieve by 2020 a world-leading capability in networking, computing and scientific data in a single and open European space for online research where researchers enjoy leading-edge, ubiquitous and reliable services for networking and computing, and seamless and open access to e-Science environments and global data resources.

To achieve this goal, support will be given to: global research and education networks providing advanced, standardised and scalable inter-domain services on-demand; grid and cloud infrastructures providing virtually unlimited computational and data processing capacity; an ecosystem of supercomputing facilities, advancing towards exascale; a software and service infrastructure, e.g. for simulation and visualisation; real-time collaborative tools; and an interoperable, open and trusted scientific data infrastructure.

⁽¹⁾ A Regional Partner Facility (RPF) is a research infrastructure of national or regional importance in terms of socio-economic returns, training and attracting researchers and technicians, that is recognised as a partner to a pan-European ESFRI or other world-class research infrastructure. The quality of the RPF, including the level of its scientific service, management and access policy, must meet the same standards required for pan-European research infrastructures.

⁽²⁾ As all research becomes computer- and data-intensive, access to state-of-the-art e-infrastructures has become essential for all researchers. For example GÉANT connects 40 million users in over 8 000 institutions across 40 countries, whereas the European Grid Infrastructure is the world's largest distributed computing infrastructure with over 290 sites in 50 countries. Relentless progress in ICT and the increasing needs of science for computing and processing massive amounts of data pose major financing and organisational challenges for ensuring seamless services to researchers.

4.2. *Fostering the innovation potential of research infrastructures and their human resources*

4.2.1. Exploiting the innovation potential of research infrastructures

The goal is to stimulate innovation both in the infrastructures themselves and in industries, such as the supplier and user industry.

To this end, support will be provided to:

- (a) R&D partnerships with industry to develop Union capacities and industrial supply in high-tech areas such as scientific instrumentation or ICT;
- (b) pre-commercial procurement by research infrastructure actors to drive forward innovation and act as early adopters or developers of cutting-edge technologies;
- (c) stimulate the use of research infrastructures by industry, e.g. as experimental test facilities or knowledge-based centres; and
- (d) encourage the integration of research infrastructures into local, regional and global innovation ecosystems.

The Union actions will also leverage the use of research infrastructures, in particular e-infrastructure, for public services, social innovation, culture, education and training.

4.2.2. Strengthening the human capital of research infrastructures

The complexity of research infrastructures and the exploitation of their full potential require adequate skills for their managers, engineers and technicians, as well as users.

The Union funding will support the training of staff managing and operating research infrastructures of pan-European interest, the exchange of staff and best practices between facilities, and the adequate supply of human resources in key disciplines, including the emergence of specific education curricula. Synergies with the Marie Skłodowska-Curie actions will be encouraged.

4.3. *Reinforcing European research infrastructure policy and international cooperation*

4.3.1. Reinforcing European policy for research infrastructures

The aims are to exploit synergies between national and Union initiatives by setting up partnerships between relevant policy makers, funding bodies or advisory groups (e.g. ESFRI, e-Infrastructure Reflection Group (e-IRG), EIROforum organisations, and national public authorities), to develop complementarities and cooperation between research infrastructures and activities implementing other Union policies (such as regional, cohesion, industrial, health, environment, employment, or development policy), and to ensure coordination between different Union funding sources. Union actions will also support survey, monitoring and assessment of research infrastructures at Union level, as well as relevant policy studies and communication tasks.

Horizon 2020 will facilitate the efforts of the Member States to optimise their research facilities by supporting an up-to-date Union-wide database on openly accessible research infrastructures in Europe.

4.3.2. Facilitating strategic international cooperation

The aim is to facilitate the development of global research infrastructures, i.e. research infrastructures that require funding and agreements on a global scale. The aim is also to facilitate the cooperation of European research infrastructures with their non-European counterparts, ensuring their global interoperability and reach, and to pursue international agreements on the reciprocal use, openness or co-financing of infrastructures. In this respect due account will be taken of the recommendations of the Carnegie Group of Senior Officials on Global Research Infrastructures. Attention will also be given to ensure adequate Union participation in coordination with international bodies such as the United Nations (UN) or the Organisation for Economic Cooperation and Development (OECD).

4.4. *Specific implementation aspects*

During implementation independent expert groups will be consulted, as well as stakeholders and advisory bodies, such as ESFRI and the e-IRG.

The implementation will follow a three-pronged approach: bottom-up where the exact content and partnership of projects are not known; targeted where the specific research infrastructures and/or communities addressed are well-defined; and named beneficiaries, for example where a contribution to operational costs is provided to (a consortium of) infrastructure operator(s).

The aims of the activity lines set out under sections 4.2 and 4.3 shall be pursued by dedicated actions, as well as within the actions developed under section 4.1, when appropriate.

PART II

INDUSTRIAL LEADERSHIP

1. LEADERSHIP IN ENABLING AND INDUSTRIAL TECHNOLOGIES

General

The successful mastering, integration and deployment of enabling technologies by European industry is a key factor in strengthening Europe's productivity and innovation capacity and ensuring Europe has an advanced, sustainable and competitive economy, global leadership in high-tech application sectors and the ability to develop effective and sustainable solutions for societal challenges taking into account, inter alia, user needs. Innovation activities will be combined with R&D, as an integral part of the funding.

An integrated approach to Key Enabling Technologies

A major component of the specific objective 'Leadership in Enabling and Industrial Technologies' are Key Enabling Technologies (KETs), defined as micro- and nanoelectronics, photonics, nanotechnology, biotechnology, advanced materials and advanced manufacturing systems. Many innovative products incorporate several of these technologies simultaneously, as single or integrated parts. While each technology offers technological innovation, the accumulated benefit from the numerous interactions of KETs and other industrial enabling technologies and their combinations can also lead to technological leaps. Tapping into cross-cutting key enabling technologies will enhance product competitiveness and impact, stimulate growth and jobs and provide new opportunities to tackle societal challenges. The numerous interactions of these technologies will therefore be exploited. Dedicated support will be provided for larger-scale pilot line and demonstrator projects to be implemented in various environments and conditions.

This will include KETs and cross-cutting KET (multi KETs) activities that bring together and integrate various individual technologies, resulting in technology validation in an industrial environment to a complete and qualified system, ready or close to enter the market. Strong private sector involvement in such activities and the demonstration of how project results will contribute to market value for the Union will be a prerequisite, and implementation could therefore take the form of public-private partnerships. To this extent and through the Horizon 2020 implementation structure, a joint work programme for cross-cutting KET activities will be developed. Taking into account market needs and the requirements of the societal challenges, it will aim at providing generic KETs and multi KETs building blocks for different application areas, including societal challenges. In addition, synergies will be sought, where appropriate, between KET activities and the activities under the cohesion policy framework in the context of national and regional R&I strategies for smart specialisation, as well as with the EIT, the European Investment Bank (EIB) and, where appropriate, with the Member States driven activities under the Joint Programming Initiatives.

Specific implementation aspects

Innovation activities will include the integration of individual technologies; demonstrations of capacities to make and deliver innovative products, systems, processes and services; user and customer pilots to prove feasibility and added value; and large-scale demonstrators to facilitate market take-up of the research results. Adequate focus will be given to small and medium scale projects. Furthermore, implementation under this Part will encourage the involvement of small and medium-sized research teams, also contributing to a more active participation of SMEs.

Various individual technologies will be integrated, resulting in technology validation in an industrial environment to a complete and qualified system, ready for the market. Strong private sector involvement in such activities will be a prerequisite, including public-private partnerships.

Demand-side actions will complement the technology push of the research and innovation initiatives. These include making the best use of public procurement of innovation; developing appropriate technical standards and technical activities in support of standardisation and regulation; private demand and engaging users to create more innovation-friendly markets.

For nanotechnology and biotechnology in particular engagement with stakeholders and the general public will aim to raise the awareness of benefits and risks. Safety assessment and the management of overall risks in the deployment of these technologies will be systematically addressed. Where appropriate, social sciences and humanities will contribute to taking into account user needs preferences and acceptance as well as ensuring societal engagement and informed consumers' choice.

The activities supported under this specific objective will complement support for research and innovation in enabling technologies, which may be provided by national or regional authorities under the Cohesion Policy Funds, within the framework of smart specialisation strategies.

This specific objective shall, as part of the funding of actions, also support technology transfer activities (both at national and regional level), including the development of international and regional innovation clusters, to promote more effective linkages between universities and the industry.

Strategic international cooperation initiatives will be pursued in areas of mutual interest and benefit with leading partner countries. Of particular, but not exclusive, interest for enabling and industrial technologies are:

- access to world-leading scientific and technological expertise;
- the development of global standards;
- the removal of bottlenecks in industrial exploitation, R&D collaboration and conditions for trade;
- the safety of nanotechnology-based and biotechnology-based products and the long-term impact of their use;
- the development of materials and methods to reduce energy and resource consumption;
- industry-led, collaborative international initiatives within the manufacturing community; and
- the interoperability of systems.

1.1. *Information and Communication Technologies (ICT)*

A number of activity lines will target ICT industrial and technological leadership challenges along the whole value chain and cover generic ICT research and innovation agendas, including notably:

1.1.1. *A new generation of components and systems: Engineering of advanced, embedded and energy- and resource-efficient components and systems*

The objective is to maintain and reinforce European leadership in technologies related to advanced, embedded, energy- and resource-efficient and robust components and systems. It also includes micro-nano-bio systems, organic electronics, large area integration, underlying technologies for the Internet of Things (IoT) ⁽¹⁾, including platforms to support the delivery of advanced services, sensors, smart integrated systems, embedded and distributed systems, systems of systems and complex systems engineering.

1.1.2. *Next generation computing: Advanced and secure computing systems and technologies, including cloud computing*

The objective is to leverage European assets in processor and system architecture, interconnect and data localisation technologies, cloud computing, parallel computing, modelling and simulation software for all market segments, including engineering applications (such as uncertainty quantification, risk analysis and decision in engineering).

1.1.3. *Future Internet: Software, hardware, infrastructures, technologies and services*

The objective is to reinforce the competitiveness of European industry in developing, mastering and shaping the next generation Internet that will gradually replace and surpass the current Web, fixed and mobile networks and service infrastructures, and enable the interconnection of trillions of devices (IoT) across multiple operators and domains that will change the way we communicate, access and use knowledge. This includes R&I on networks, software, processes and services, cyber security, privacy, reliability and trust, wireless ⁽²⁾ communication and all optical networks, immersive interactive multimedia and the connected enterprise of the future.

⁽¹⁾ Internet of Things will be coordinated as a cross-cutting issue.

⁽²⁾ Including space-based networks.

1.1.4. Content technologies and information management: ICT for digital content and for cultural and creative industries

The objective is to strengthen Europe's position as provider of products and services based on individual and business creativity. It will do so by providing professionals and citizens with new tools to create, access, exploit, preserve and re-use all forms of digital content in any language and to model, analyse and visualise vast amounts of data (big data), including linked data. This includes new technologies for arts, language, learning, interaction, digital preservation, web design, content access, analytics and media; and intelligent and adaptive information management systems based on advanced data mining, machine learning, statistical analysis and visual computing technologies.

1.1.5. Advanced interfaces and robots: Robotics and smart spaces

The objective is to reinforce European scientific and industrial leadership in industrial and service robotics, cognitive and communicative systems, advanced interfaces and smart spaces, and sentient machines, building on increases in computing and networking performance and progress in the ability to design and build systems that can learn, self-assemble, adapt and react or that optimise human-machine interactions. Where appropriate, the systems developed and advancements in the state of the art should be validated in real-world environments.

1.1.6. Micro- and nanoelectronics and photonics: Key enabling technologies related to micro- and nanoelectronics and to photonics, covering also quantum technologies

The objective is to take advantage of the excellence of Europe in these key enabling technologies and support and further enhance the competitiveness and market leadership of its industry. Activities will also include research and innovation on design, advanced processes, pilot lines for fabrication, related production technologies and demonstration actions to validate technology developments and innovative business models as well as underlying next generation technologies exploiting advances in quantum physics.

These six major activity lines are expected to cover the full range of needs taking into account the competitiveness of European industry on a global scale. These would include industrial leadership in generic ICT-based solutions, products and services needed to tackle major societal challenges as well as application-driven ICT research and innovation agendas which will be supported together with the relevant societal challenge. In view of the ever increasing advancement of technology in all areas of life, the interaction between humans and technology will be important in this respect, and part of the application-driven ICT research mentioned above. Research with a user-centred perspective will contribute to the development of competitive solutions.

Included under each of these six major activity lines are also ICT-specific research infrastructures, such as living labs for experimentation, and infrastructures for underlying key enabling technologies and their integration in advanced products and innovative smart systems, including equipment, tools, support services, clean rooms and access to foundries for prototyping.

This should be implemented in a way that ensures complementarity and consistency with the specific objective "Research infrastructures" under the priority "Excellent Science".

Activities will support research and development of ICT systems in full respect of the fundamental rights and freedoms of natural persons and in particular their right to privacy.

1.2. Nanotechnologies

1.2.1. Developing next generation nanomaterials, nanodevices and nanosystems

Development and integration of knowledge of nanoscale phenomena at the cross-roads of different scientific disciplines, aiming at fundamentally new products and systems enabling sustainable solutions in a wide range of sectors.

1.2.2. Ensuring the safe and sustainable development and application of nanotechnologies

Advancing scientific knowledge of the potential impact of nanotechnologies on health or on the environment for proactive, science-based governance of nanotechnologies, and providing validated scientific tools, methods and platforms for hazard, exposure and risk assessment and management along the entire life cycle of nanomaterials and nanosystems, including standardisation issues.

1.2.3. Developing the societal dimension of nanotechnology

Addressing the human and physical needs of nanotechnology deployment and focusing on governance of nanotechnology for societal and environmental benefit, including communication strategies to ensure social engagement.

1.2.4. Efficient and sustainable synthesis and manufacturing of nanomaterials, components and systems

Focusing on new flexible, scalable and repeatable unit operations, smart integration of new and existing processes, including technology convergence such as nanobiotechnology, as well as up-scaling to enable sustainable high precision large-scale production of products and flexible and multi-purpose plants that ensure the efficient transfer of knowledge into industrial innovation.

1.2.5. Developing and standardisation of capacity-enhancing techniques, measuring methods and equipment

Focusing on the underpinning technologies, supporting the development and market introduction of safe complex nanomaterials and nanosystems, including nanometrology, characterisation and manipulation of matter at the nano-scale, modelling, computational design and advanced engineering at the atomic level.

1.3. Advanced materials

1.3.1. Cross-cutting and enabling materials technologies

Research on materials by design, functional materials, multifunctional materials with higher knowledge content, new functionalities and improved performance, such as self-repairing or biocompatible materials, self-assembling materials, novel magnetic materials and structural materials, for innovation in all industrial sectors, particularly for high value markets, and including the creative industries.

1.3.2. Materials development and transformation

Research and development to ensure efficient, safe and sustainable development and scale-up to enable industrial manufacturing of future design-based products towards a "no-waste" management of materials in Europe, e.g. in the metal, chemical or biotechnological industries, and to improve the understanding of material degradation mechanisms (wear, corrosion and mechanical reliability).

1.3.3. Management of materials components

Research and development for new and innovative techniques for materials, components and systems, joining, adhesion, separation, assembly, self-assembly and the disassembling, decomposition and deconstruction of material components, and management of life-cycle costs and environmental impacts through novel use of advanced materials technology.

1.3.4. Materials for a sustainable, resource-efficient and low-emission industry

Developing new products and applications, business models and responsible consumer behaviour that increase the use of the renewable resources for sustainable applications, reduce energy demand in the product's entire life cycle and facilitate low-emission production, as well as process intensification, recycling, depollution, materials for energy storage and materials with potential for high added value from waste and remanufacture.

1.3.5. Materials for creative industries, including heritage

Applying design and the development of converging technologies to create new business opportunities, including the preservation and restoration of Europe's heritage and materials with historical or cultural value, as well as novel materials.

1.3.6. Metrology, characterisation, standardisation and quality control

Promoting technologies such as characterisation, non-destructive evaluation, continuous assessing and monitoring and predictive modelling of performance for progress and impact in materials science and engineering.

1.3.7. Optimisation of the use of materials

Research and development to investigate substitution and alternatives to the use of materials, including addressing the challenge of raw materials through tailor-made materials or the substitution of scarce, critical or dangerous materials, and innovative business model approaches and identification of critical resources.

1.4. *Biotechnology*

1.4.1. Boosting cutting-edge biotechnologies as a future innovation driver

The objective is to lay the foundations for the European industry to stay at the front line of innovation, also in the medium and long term. It encompasses the development of emerging technology areas such as synthetic biology, bioinformatics and systems biology, as well as exploiting the convergence with other enabling technologies such as nanotechnology (e.g. bionanotechnology), ICT (e.g. bioelectronics) and engineering technology. These and other cutting-edge fields deserve appropriate measures in terms of research and development to facilitate effective transfer and implementation into new applications.

1.4.2. Biotechnology-based industrial products and processes

The objective is twofold: on the one hand, enabling the European industry (e.g. chemical, health, mining, energy, pulp and paper, fibre-based products and wood, textile, starch, and food processing industries) to develop new products and processes meeting industrial and societal demands using preferably environmentally friendly and sustainable production methods and competitive and enhanced biotechnology-based alternatives to replace established ones; on the other hand, harnessing the potential of biotechnology for detecting, monitoring, preventing and removing pollution. It includes R&I on novel enzymes with optimised biocatalyst functions, enzymatic and metabolic pathways, industrial scale bio-process design, integration of bio-processes in industrial production processes, advanced fermentation, up- and down-stream processing, and gaining insight on the dynamics of microbial communities. It will also encompass the development of prototypes for assessing the techno-economic feasibility as well as the sustainability of the developed products and processes.

1.4.3. Innovative and competitive platform technologies

The objective is to develop platform technologies (e.g. genomics, meta-genomics, proteomics, metabolomics, molecular tools, expression systems, phenotyping platforms and cell-based platforms) triggering leadership and competitive advantage on a wide number of economic sectors having economic impact. It includes aspects such as underpinning the development of bio-resources with optimised properties and applications beyond conventional alternatives; enabling exploration, understanding and exploitation in a sustainable manner of terrestrial and marine biodiversity for novel applications, bio-based products and processes; and sustaining the development of biotechnology-based healthcare solutions (e.g. diagnostics, biologicals, and bio-medical devices).

1.5. *Advanced Manufacturing and Processing*

1.5.1. Technologies for Factories of the Future

Promoting sustainable industrial growth by facilitating a strategic shift in Europe from cost-based manufacturing to an approach based on the creation of high added value products and ICT-enabled intelligent and high performance manufacturing in an integrated system. This requires addressing the challenge of producing more, while consuming less material, using less energy and generating less waste and pollution aiming at high ecological efficiency. The focus will be on the development and integration of the adaptive production systems of the future, with particular emphasis on the needs of European SMEs, in order to achieve advanced and sustainable manufacturing systems and processes. Focus shall also be on methodologies for enhancing flexible, safe and smart production where adequate levels of automation are applied in worker-friendly environments.

1.5.2. Technologies enabling energy-efficient systems and energy-efficient buildings with a low environmental impact

Reducing energy consumption and CO₂ emissions by the development and deployment of sustainable construction technologies and systems and by the implementation and replication of measures for an increased uptake of energy-efficient systems and materials in new, renovated and retrofitted buildings. Life-cycle considerations and the growing importance of design-build-operate concepts will be key factors in addressing the challenge of a transition to near-zero-energy buildings in Europe by 2020 and the realisation of energy-efficient districts through the engagement of the wide stakeholder community.

1.5.3. Sustainable, resource-efficient and low-carbon technologies in energy-intensive process industries

Increasing the competitiveness of process industries, such as chemical, cement, pulp and paper, glass, minerals or non-ferrous metals and steel industries, by drastically improving resource and energy efficiencies and reducing the environmental impact of such industrial activities. Focus will be on the development and validation of enabling technologies for innovative substances, materials and technological solutions for low-carbon products and less energy-intensive processes and services along the value chain, as well as on the adoption of ultra-low carbon production technologies and techniques, to achieve specific greenhouse gas emission intensity reductions.

1.5.4. New sustainable business models

Cross-sectoral cooperation in concepts and methodologies for knowledge-based, specialised production can boost learning in organisations, creativity and innovation with a focus on business models in customised approaches that can adapt to the requirements of globalised value chains and networks, changing markets, and emerging and future industries. This includes addressing sustainable business models by covering the whole lifecycle of the product and process.

1.6. Space

In the field of space research, action at Union level will be carried out in conjunction with the space research activities of the Member States and the European Space Agency (ESA), aiming at building up complementarity among different actors.

1.6.1. Enabling European competitiveness, non-dependence and innovation of the European space sector

The objective is to maintain a globally leading role in space by safeguarding and further developing a cost-effective, competitive and innovative space industry (including SMEs) and research community and by fostering space-based innovation.

1.6.1.1. Safeguard and further develop a competitive, sustainable and entrepreneurial space industry and research community and strengthen European non-dependence in space systems

Europe is playing a leading role in space research and in the development of space technologies and is continually developing its own operational space infrastructures (e.g. the Galileo programme and the Copernicus programme). In fact, European industry has established itself as an exporter of first class satellites and other space-related technologies. Nevertheless, this position is challenged by competition from other major space powers. The objective of this measure is the development of a research base by providing continuity in space research and innovation programmes, for example by a sequence of smaller and more frequent in-space demonstration projects. This will allow Europe to develop its industrial base and space research and technological development (RTD) community, thereby contributing to advancing beyond the current state of the art and to its non-dependence from imports of critical technologies.

Standardisation should be supported in order to optimise the investments and to develop access to market.

1.6.1.2. Boost innovation between space and non-space sectors

A number of challenges in space technologies have parallels to terrestrial challenges, for example in the fields of aeronautics, energy, environment, telecommunications and ICT, natural resource exploration, sensors, robotics, advanced materials, security and health. These commonalities offer opportunities for early co-development, in particular by SMEs, of technologies across space and non-space communities, including non-space industries, potentially resulting in breakthrough innovations more rapidly than achieved in spin-offs at a later stage. Exploitation of existing European space infrastructure should be stimulated by promoting the development of innovative products and services based on remote sensing, geo-positioning or other types of satellite enabled data. Europe should furthermore reinforce the incipient development of an entrepreneurial space sector, where appropriate, by well targeted measures, including support for space technology transfer initiatives.

1.6.2. Enabling advances in space technologies

The objective is to develop advanced and enabling space technologies and operational concepts from idea to demonstration in space.

The ability to access space and to develop, maintain and operate space systems in Earth orbit and beyond are vital to the future of European society. The necessary capabilities require research and innovation investments in a multitude of space technologies (e.g. for launchers and other vehicles, satellites, robotics, instruments and sensors) and in operational concepts from idea to demonstration in space. Europe is currently one of the three leading space powers mainly driven by investments by Member States through ESA and national programmes, but compared to the level of investment in space R&D in the United States (e.g. about 20 % of the total NASA budget) the European focus in future space technologies and applications needs to be strengthened along the entire chain:

- (a) low technology readiness level (TRL) research, often relying heavily on key enabling technologies, with the potential of generating breakthrough technologies with terrestrial applications;
- (b) improvement of existing technologies, e.g. through miniaturisation, higher energy efficiency, and higher sensor sensitivity;
- (c) demonstration and validation of new technologies and concepts in the space and terrestrial analogue environments;

- (d) mission context, e.g. analysis of the space environment, ground stations, protecting space systems and infrastructure against damage or destruction from collision with debris or other space objects, as well as the effects of space weather events including solar flares (Space Situational Awareness, SSA), fostering innovative data gathering and transmission and sample archiving infrastructure;
- (e) satellite communication, advanced navigation and remote sensing technologies, covering the research essential for future generations of Union space systems (e.g. Galileo and Copernicus).

1.6.3. Enabling exploitation of space data

The objective is to ensure more extensive utilisation of space data from existing, archived and future European missions in the scientific, public and commercial domain.

Space systems produce information which often cannot be acquired in any other way. Despite world-class European missions, publication figures show that data from European missions are not as likely to be used as data from US missions. A considerably increased exploitation of data from European satellites (scientific, public or commercial) can be achieved if further effort is made for the processing, archiving, validation, standardisation and sustainable availability of space data from European missions as well as to support the development of new information products and services resulting from those data and, where appropriate, in combination with data from ground-based observations. Innovations in data acquisition and processing, data fusion, and data dissemination and interoperability, in particular promotion of access to and exchange of earth science data and metadata, utilising also innovative ICT-enabled forms of collaboration, can ensure a higher return on investment of space infrastructure and contribute to tackling societal challenges. Calibration and validation of space data (for individual instruments, between instruments and missions, and with respect to in-situ objects) are key factors in the efficient use of space data in all domains, and there is a need to enhance the standardisation of space-derived data and reference frames.

Data access and exploitation of space missions is a matter that requires global coordination. For Earth observation data, harmonised approaches and best practices are partly achieved in coordination with the intergovernmental organisation Group on Earth Observation (GEO), aiming to sustain a Global Earth Observation System of Systems (GEOSS), in which the Union participates, namely by fully exploiting the Copernicus programme. A fast introduction of these innovations into the relevant application and decision making processes will be supported. This includes as well the exploitation of data for further scientific investigation.

1.6.4. Enabling European research in support of international space partnerships

The objective is to support the European research and innovation contribution to long term international space partnerships.

Although space information provides great local benefits, space undertakings have a fundamentally global character. This is particularly clear for the cosmic threat to Earth and space systems. The loss of satellites due to space weather and space debris is estimated to cost around EUR 100 million a year. Equally global are many space science and exploration projects. The development of cutting-edge space technology is increasingly taking place within such international partnerships, making access to such international projects an important success factor for European researchers and industry. The Union contribution to such global space endeavours needs to be defined in long-term strategic roadmaps (10 years and more), aligning with the Union's space policy priorities, and in coordination with the Member States and internal European partners, such as ESA and National Space Agencies, and, when relevant, with international partners and with the space agencies of space-faring nations.

1.6.5. Specific implementation aspects

The implementation priorities of space research and innovation under Horizon 2020 are in line with the Union's space policy priorities as defined by the Space Council and in the Commission Communication of 4 April 2011 entitled "Towards a space strategy for the European Union that benefits its citizens". The implementation will, where appropriate, be based on strategic research agendas developed in consultation with the Member States and National Space Agencies, ESA, stakeholders from European space industry (including SMEs), academia, technology institutes and the Space Advisory Group. As regards the participation in international undertakings, the research and innovation agenda will be defined in collaboration with European stakeholders and international partners (e.g. NASA, ROSCOSMOS and JAXA).

The application of space technologies shall be supported through the respective specific objectives of the priority "Societal challenges", where appropriate.

2. ACCESS TO RISK FINANCE

Horizon 2020 will set up two facilities (the 'Equity facility' and the 'Debt facility'), composed of various windows. The Equity facility and the SME window of the Debt facility will be implemented in interdependence with COSME, as part of two Union Financial Instruments that provide equity and debt to support R&I and growth of SMEs.

The Equity facility and the Debt facility may, where appropriate, allow pooling of financial resources with Member States or regions willing to contribute part of the ESI Funds allocated to them, in accordance with Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽¹⁾.

Instead of providing for instance loans, guarantees or equity directly to final beneficiaries, the Commission will delegate to financial institutions the provision of support via, in particular, risk-sharing, guarantee schemes and equity and quasi-equity investments.

2.1. Debt facility

The Debt facility will provide loans to single beneficiaries for investment in R&I; (counter-) guarantees to financial intermediaries providing loans to beneficiaries; combinations of loans and (counter-) guarantees; and guarantees and/or counter-guarantees for national or regional debt-financing schemes. The Debt facility will undertake maturity enhancement activities, and it will support the dedicated SME Instrument, subject to the level of demand (see section 3 'Innovation in SMEs' of Part II). Provisions from the Debt facility may be combined, with the possible addition of grants (including lump sums), with provisions from the Equity facility in one or more integrated schemes. Soft loans, convertible loans, subordinated loans, participating loans, leasing loans and securitisation may also be possible.

As well as providing loans and guarantees on a market-driven, first-come, first-served basis, the Debt facility will target, under a series of compartments, particular policies and sectors. Ring-fenced budgetary contributions for this purpose may, where appropriate, come from:

- (a) other parts of Horizon 2020, notably Part III 'Societal challenges';
- (b) other frameworks, programmes and budget lines in the general budget of the Union;
- (c) particular regions and Member States that wish to contribute with resources available from the Cohesion Policy Funds; and
- (d) specific entities (such as Joint Technology Initiatives) or initiatives.

Such budgetary contributions may be made or topped up at any time during the course of Horizon 2020.

Risk-sharing and other parameters may vary within policy or sector compartments, provided their values or states comply with the common rules for debt instruments. Furthermore, compartments may have specific communications strategies within the overall promotional campaign for the Debt facility. In addition, specialist intermediaries at national level may be used if specific expertise is needed to assess prospective loans in the domain of a particular compartment.

The SME window under the Debt facility shall target R&I-driven SMEs and small mid-caps with loan amounts exceeding EUR 150 000, thus complementing finance to SMEs by the Loan Guarantee Facility under COSME. The SME window of the Debt facility shall also cover loans below EUR 150 000 for R&I-driven SMEs and small mid-caps.

The leverage of the Debt facility - defined as the total funding (i.e. Union funding plus contribution from other financial institutions) divided by the Union financial contribution - is expected to range from an average 1,5 to 6,5, depending on the type of operations involved (level of risk, target beneficiaries, and the particular debt financial instrument facility concerned). The multiplier effect - defined as the total of investments made by supported beneficiaries divided by the Union financial contribution - is expected to be 5 to 20, again depending on the type of operations involved.

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (See page 320 of this Official Journal).

2.2. Equity facility

The Equity facility will focus on early-stage venture capital funds and public and private funds-of-funds providing venture capital and/or mezzanine capital to individual portfolio enterprises. These enterprises may, in addition, seek debt financing from financial intermediaries implementing the Debt facility. Furthermore, the Equity facility will also explore possibilities to support business angels and other potential sources of equity finance. This could also include support at the phase 3 stage of the SME instrument subject to the level of demand, as well as to technology transfer (including the transfer of research results and inventions stemming from the sphere of public research to the productive sector, for example through proof-of-concept).

The Equity facility will also have the possibility to make expansion and growth-stage investments in conjunction with the Equity Facility for Growth (EFG) under COSME (this includes investments in funds-of-funds with a broad investor base and includes private institutional and strategic investors as well as national public and semi-public financial institutions). In the latter case, the investment from the Equity facility of Horizon 2020 shall not exceed 20 % of the total Union investment except in cases of multi-stage funds, where funding from EFG and the Equity facility of Horizon 2020 will be provided on a pro rata basis, based on the funds' investment policy. Like the EFG, the Equity facility shall avoid buy-out or replacement capital intended for the dismantling of an acquired enterprise. The Commission may decide to amend the 20 % threshold in light of changing market conditions.

The Union Equity Financial Instrument for SMEs' R&I and growth referred to in the first paragraph of section 2 should be of an appropriate size and scale to back innovative companies from the earliest stage through to growth and expansion, in an integrated approach.

Investment parameters will be set in such a way that specific policy objectives, including the targeting of particular groups of potential beneficiaries, can be achieved while still preserving the market-oriented, demand-driven approach of this instrument.

The Equity facility may be supported by budgetary contributions from:

- (a) other parts of Horizon 2020;
- (b) other frameworks, programmes and budget lines in the general budget of the Union;
- (c) particular regions and Member States; and
- (d) specific entities or initiatives.

The leverage of the Equity facility - defined as the total funding (i.e. Union funding plus contribution from other financial institutions) divided by the Union financial contribution - is expected to be around 6, depending on market specificities, with an expected multiplier effect - defined as the total of investments made by supported beneficiaries divided by the Union financial contribution - of, on average, 18.

2.3. Specific implementation aspects

The implementation of the two facilities will be delegated to the European Investment Bank Group (EIB and the European Investment Fund (EIF)) and/or to other financial institutions that may be entrusted with the implementation of financial instruments in compliance with Regulation (EU, Euratom) No 966/2012. Their design and implementation will be aligned with the general provisions for financial instruments set out in that Regulation and with more specific operational requirements to be set out in Commission guidance. The use of financial instruments must have a clear European added value and should provide leverage and function as a complement to national instruments.

Financial intermediaries, selected by entrusted entities for the implementation of financial instruments pursuant to Article 139(4) of Regulation (EU, Euratom) No 966/2012 on the basis of open, transparent, proportionate and non-discriminatory procedures, may include private financial institutions as well as governmental and semi-governmental financial institutions, national and regional public banks as well as national and regional investment banks.

Their elements may be combined, with the possible addition of grants (including lump sums), in one or more integrated schemes supporting particular categories of beneficiary or special-purpose projects, such as SMEs and mid-caps with growth potential, or the large-scale demonstration of innovative technologies.

Their implementation will be supported by a set of accompanying measures. These may include technical assistance for financial intermediaries involved in assessing the eligibility of loan applications or the value of knowledge assets; investment-readiness schemes covering incubating, coaching and mentoring SMEs and fostering their interaction with potential investors; measures to raise the awareness of venture capital firms and business angels of the growth potential of innovative SMEs involved in Union funding programmes; schemes to attract private investors to support the growth of innovative SMEs and mid-caps; actions to improve cross-border and multi-country debt and equity financing; schemes for encouraging philanthropic foundations and individuals to support R&I; and schemes to foster corporate venturing and encourage the activities of family offices and business angels.

Bodies such as regional authorities, SMEs associations, chambers of commerce and relevant financial intermediaries may be consulted, as appropriate, in relation to the preparation and implementation of these activities.

Complementarity will be ensured with the facilities of COSME.

3. INNOVATION IN SMES

3.1. *Mainstreaming SME support, especially through a dedicated instrument*

SMEs will be supported across Horizon 2020. For this purpose, to participate in Horizon 2020, better conditions for SMEs shall be established. In addition, a dedicated SME instrument is targeted at all types of innovative SMEs showing a strong ambition to develop, grow and internationalise. It will be provided for all types of innovation, including non-technological, social and service innovations, given each activity has a clear European added value. The objective is to help fill the gap in funding for early stage high-risk research and innovation, stimulate breakthrough innovations and increase private-sector commercialisation of research results.

All specific objectives of the priority "Societal challenges" and the specific objective "Leadership in enabling and industrial technologies" shall apply the dedicated SME instrument and allocate an appropriate amount to it, to reach the minimum goal of 20 % of total combined budgets for all specific objectives of the priority "Societal challenges" and the specific objective 'Leadership in enabling and industrial technologies' being devoted to SMEs.

Only SMEs will be allowed to apply for funding and support. They can form collaborations according to their needs, including for subcontracting research and development work. Projects must be of clear interest and potential benefit to SMEs and have a clear European dimension.

The SME instrument will cover all fields of science, technology and innovation in a bottom-up approach within a given societal challenge or enabling technology so as to leave sufficient room for all kinds of promising ideas, notably cross-sector and interdisciplinary projects, to be funded.

The SME instrument will operate under a single centralised management system, light administrative regime and a single entry point. It shall be implemented primarily in a bottom-up manner through a continuously open call.

The SME instrument will provide simplified and staged support. Its three phases will cover the whole innovation cycle. Transition from one phase to the next will be seamless, provided that the SME project has proven to be worth further funding during a previous phase. There is no obligation for applicants to sequentially cover all three phases. At the same time each phase will be open to all SMEs:

— Phase 1: Concept and feasibility assessment:

SMEs will receive funding to explore the scientific or technical feasibility and the commercial potential of a new idea (proof of concept) in order to develop an innovation project. A positive outcome of this assessment, in which the linkage between project-topic and potential user/buyer needs is an important issue, will allow for funding under the following phase(s).

— Phase 2: R&D, demonstration, market replication:

With due attention to the innovation voucher concept, research and development will be supported with a particular focus on demonstration activities (testing, prototype, scale-up studies, design, piloting innovative processes, products and services, validation, performance verification etc.) and market replication encouraging the involvement of end users or potential clients. Innovation Vouchers will promote the participation of young entrepreneurs.

— Phase 3: Commercialisation:

This phase will not provide direct funding other than support activities, but aims to facilitate access to private capital and innovation enabling environments. Links to the financial instruments (see section 2 'Access to Risk Finance' of Part II) are foreseen, for example by giving SMEs that have successfully completed phases 1 and/or 2 priority within a ring-fenced volume of financial resources. SMEs will also benefit from support measures such as networking, training, coaching and advice. In addition, this phase may connect to measures promoting pre-commercial procurement and procurement of innovative solutions.

Uniform promotion, implementation and monitoring of the SME instrument across Horizon 2020 will ensure easy access for SMEs. Relying on existing SME support networks, such as the Europe Enterprise Network and other innovation service providers, a mentoring scheme for the beneficiary SMEs shall be established to accelerate impact from the support provided. In addition, links will be explored with relevant national and/or regional intermediaries to ensure an efficient implementation of the mentoring scheme.

A dedicated body of stakeholders and experts in SME research and innovation will be set up with view to promoting and accompanying the specific SME measures of Horizon 2020.

3.2. *Specific support*

3.2.1. *Support for research-intensive SMEs*

A specific action will promote transnational market-oriented innovation of R&D performing SMEs. It targets research-intensive SMEs in any sectors that also need to demonstrate their capability to commercially exploit the project results.

The action will cover the entire field of science and technology with a bottom-up approach to fit the needs of R&D performing SMEs.

The action will be implemented by an Article 185 TFEU initiative building on the Eurostars Programme and reorienting it along the lines stated in its interim evaluation.

3.2.2. *Enhancing the innovation capacity of SMEs*

Transnational activities assisting the implementation of and complementing the SME specific measures across Horizon 2020 will be supported, notably to enhance the innovation capacity of SMEs. Activities may include awareness raising, information and dissemination, training and mobility activities, networking and exchange of best practices, developing high quality innovation support mechanisms and services with strong Union added value for SMEs (e.g. intellectual property and innovation management, knowledge transfer, innovative use of ICT and e-skills in SMEs), as well as assisting SMEs to connect to research and innovation partners across the Union, allowing them to spin in technology and develop their innovation capacity. Intermediary organisations representing groups of innovative SMEs shall be invited to conduct cross-sectoral and cross-regional innovation activities with SMEs having mutually reinforcing competences, in order to develop new industrial value chains.

These activities shall be coordinated with similar national measures when appropriate. Close cooperation with the National Contact Point (NCP) Network is envisaged. Synergies with Union cohesion policy will be sought in the context of national and regional innovation strategies for smart specialisation.

A reinforced link with the Enterprise Europe Network (EEN) (under COSME) is envisaged ensuring its coordination with the National Contact Points. The support could range from improved information and advisory services through mentoring, coaching and partner search activities for SMEs wishing to develop cross-border innovation projects, to providing innovation support services. This will consolidate the 'one stop shop' approach of the Enterprise Europe Network to supporting SMEs, together with a strong regional and local presence of the network.

3.2.3. *Supporting market-driven innovation*

These activities will support transnational market-driven innovation in view of enhancing the innovation capacity of SMEs by improving the framework conditions for innovation as well as tackling the specific barriers preventing the growth of innovative SMEs with potential for fast growth. Specialised innovation support (on e.g. exploitation of intellectual property, networks of procurers, support to technology transfer offices, and strategic design) and reviews of public policies in relation to innovation will be supported.

PART III

SOCIETAL CHALLENGES

1. HEALTH, DEMOGRAPHIC CHANGE AND WELL-BEING

Effective health promotion, supported by a robust evidence base, prevents disease, contributes to well-being and is cost-effective. Promotion of health, active ageing, well-being and disease prevention also depend on an understanding of the determinants of health, on effective preventive tools, such as vaccines, on effective health and disease surveillance and preparedness, and on effective screening programmes.

Successful efforts to prevent, detect early, manage, treat and cure disease, disability, frailty and reduced functionality are underpinned by the fundamental understanding of their causes, processes and impacts, as well as factors underlying good health and well-being. Improved understanding of health and disease will demand close linkage between fundamental, clinical, epidemiological and socio-economic research. Effective sharing of data and the linkage of these data with real-world large-scale cohort studies is also essential, as is the translation of research findings into the clinic, in particular through the conduct of clinical trials.

It is a societal challenge to adjust to the further demands on health and care sectors due to the ageing population. If effective health and care is to be maintained for all ages, efforts are required to improve and speed up decision making in prevention and treatment provision, to identify and support the dissemination of best practice in the health and care sector, to raise awareness and to support integrated care. A better understanding of ageing processes and the prevention of age-related illnesses are the basis for keeping European citizens healthy and active throughout the course of their lives. Similarly important is the wide uptake of technological, organisational and social innovations empowering older persons, persons with chronic diseases as well as disabled persons, to remain active and independent. Doing so will contribute to increasing their physical, social, and mental well-being and lengthening the duration thereof.

This specific objective should address in the relevant activities chronic conditions and diseases including but not limited to: cardiovascular disease, cancer, metabolic diseases and risk factors including diabetes, chronic pain, neurological, neurodegenerative, mental health and substance use disorders, rare diseases, overweight and obesity, autoimmune diseases, rheumatic and musculo-skeletal disorders and various diseases affecting different organs as well as acute conditions and various functional limitations. Likewise infectious diseases, including but not limited to HIV/AIDS, tuberculosis and malaria, neglected and poverty related diseases and animal-borne diseases, emerging epidemics, re-emerging infectious diseases (including water-related diseases) as well as the threat of increasing anti-microbial resistance and occupational diseases and work related disorders should be addressed.

Personalised medicine should be developed in order to suit preventive and therapeutic approaches to patient requirements, and must be underpinned by the early detection of disease.

All of these activities will be undertaken in such a way as to provide support throughout the research and innovation cycle, strengthening the competitiveness of the European based industries and development of new market opportunities. Support will be given to translational approaches that integrate several steps of the innovation process in the health care industry.

Specific activities are described below.

1.1. *Understanding health, well-being and disease*

1.1.1. Understanding the determinants of health, improving health promotion and disease prevention

A better understanding of the determinants of health is required in order to provide evidence for effective health promotion and disease prevention, and will also allow the development of comprehensive health and well-being indicators in the Union based on existing data sources and indicator systems. Environmental, behavioural (including life-style), psychological, organisational, cultural, socio-economic, biological and genetic factors, in their broadest senses, will be studied. Approaches will include the long term study of cohorts and their linkage with data derived from "omics" research, systems bio-medicine including relevant applications of systems biology and other methods.

In particular, a better understanding of the environment as a determinant of health will require an interdisciplinary approach integrating amongst others human-relevant molecular biological, epidemiological and toxicological approaches and resultant data to study the modes of action of various chemicals, combined exposures to pollutants and other

environmental and climate-related stressors, to perform integrated toxicological testing and to seek alternatives to animal testing. Innovative approaches to exposure assessment are needed using new-generation biomarkers based on 'omics' and epigenetics, human biomonitoring, personal exposure assessments and modelling to understand combined, cumulative and emerging exposures, integrating socio-economic, cultural, occupational, psychological and behavioural factors. Improved links with environmental data using advanced information systems will be supported.

In this way, existing and planned policies and programmes can be assessed and policy support provided. Similarly, improved behavioural interventions, prevention and education programmes can be developed, including those pertaining to health literacy in nutrition, physical activity, vaccination and other primary care interventions.

1.1.2. Understanding disease

There is a need for an improved understanding of health and disease, throughout the human life cycle, so that new and better prevention measures, diagnosis, treatments and rehabilitation measures can be developed. Interdisciplinary, basic and translational research on the patho-physiology of disease is essential to improve the understanding of all aspects of disease processes, including a re-classification of normal variation and disease based on molecular data, and to validate and use research results in clinical applications.

Underpinning research will encompass and encourage development and use of new tools and approaches for the generation of biomedical data and will include bio-imaging, "omics", high throughput and systems medicine approaches. These activities will demand close linkage between fundamental and clinical research and with long term cohort studies (and the corresponding research domains) as described above. Close links with research and medical infrastructures (databases, bio-banks etc.) will also be required for standardisation, storage, sharing and access to data, which are all essential for maximising data utility and for stimulating more innovative and effective ways of analysing and combining datasets.

1.1.3. Improving surveillance and preparedness

Human populations are under threat from new and emerging infections, including of zoonotic origin, as well as from those which result from drug resistance to existing pathogens and from other direct and indirect consequences of climate change and from the international movement of people. New or improved methods for surveillance, diagnosis, early warning networks, health service organisation and preparedness campaigns are needed for the modelling of epidemics and for effective pandemic response. Efforts to maintain and enhance capabilities to combat drug-resistant infectious diseases are also needed.

1.2. Preventing disease

1.2.1. Developing effective prevention and screening programmes and improving the assessment of disease susceptibility

The development of prevention and screening programmes depends on the identification of early biomarkers (including functional and behavioural) of risk and of disease onset, and their design should be informed by internationally accepted criteria. Their deployment depends on the testing and validation of screening methods and programmes. Knowledge should be generated and methods developed for identifying individuals and populations at a clinically relevant increased risk of disease. Identifying individuals and populations at high risk of disease will allow personalised, stratified and collective strategies for efficacious and cost-effective disease prevention to be developed.

1.2.2. Improving diagnosis and prognosis

An improved understanding of health, disease and disease processes throughout the life cycle is needed to develop new and more effective diagnostics and theranostics. Innovative and existing methods, technologies and tools will be developed with the goal of significantly improving disease outcomes through earlier, more accurate diagnosis and prognosis and by allowing for accessible, more patient-adapted, treatment.

1.2.3. Developing better preventive and therapeutic vaccines

There is a need for more effective preventive and therapeutic interventions and vaccines and evidence-based vaccination schemes for an expanded range of diseases, including poverty-related diseases such as HIV/AIDS, tuberculosis, malaria and neglected infectious diseases and also for other major diseases. This relies on a better understanding of disease and disease processes and their consequent epidemics and on clinical trials and associated studies being undertaken.

1.3. *Treating and managing disease*

1.3.1. *Treating disease, including developing regenerative medicine*

There is a need to support the improvement of cross-cutting support technologies for drugs, biotherapies, vaccines and other therapeutic approaches, including transplantation, surgery, gene and cell therapy and nuclear medicine; to increase success in the drug and vaccine development process (including alternative methods to replace classical safety and effectiveness testing, e.g. the development of new methods); to develop regenerative medicine approaches, including approaches based on stem cells; to develop new biopharmaceuticals, including therapeutic vaccines; to develop improved medical and assistive devices and systems; to improve palliative therapies; to maintain and enhance the ability to combat disease and undertake medical interventions that depend on the availability of effective and safe antimicrobial drugs; and to develop comprehensive approaches to treat co-morbidities at all ages and avoid poly-pharmacy. These improvements will facilitate the development of new, more efficient, effective, sustainable and personalised treatments for disease and for the management of disability and frailty, including advanced therapies and cellular therapies for the treatment of chronic diseases.

1.3.2. *Transferring knowledge to clinical practice and scalable innovation actions*

Clinical trials are an important means to transfer biomedical knowledge to application in patients, and support for these will be provided, as well as for the improvement of their practice. Examples include the development of better methodologies to allow trials to focus on relevant population groups, including those suffering from other concomitant diseases and/or already undergoing treatment; the determination of comparative effectiveness of interventions and solutions; and enhancing the use of databases and electronic health records as data sources for trials and knowledge transfer. Pre-clinical and/or clinical development of designated orphan drugs will be supported. Similarly, support for the transfer of other types of interventions, such as those related to independent living, into real world environments will be provided.

1.4. *Active ageing and self-management of health*

1.4.1. *Active ageing and independent and assisted living*

Multidisciplinary advanced and applied research and innovation with socioeconomic, behavioural, gerontological, digital and other sciences is needed for cost-effective user-friendly solutions for active, independent and assisted daily living (in the home, the workplace, public spaces, etc.) for the ageing population and people with disabilities taking into account gender differences. This applies in a variety of settings and for technologies and systems and services enhancing quality of life and human functionality including mobility, smart personalised assistive technologies, service and social robotics, and ambient assistive environments. Research and innovation pilots to assess implementation and wide uptake of solutions will be supported. Involvement of end-users, user communities and formal/informal carers will be emphasised.

1.4.2. *Individual awareness and empowerment for self-management of health*

Empowering individuals to improve and manage their health throughout life will result in more cost-effective health and care systems by enabling the management of chronic disease outside institutions and improving health outcomes. This requires research into socio-economic factors and cultural values, behavioural and social models, attitudes and aspirations in relation to personalised health technologies, mobile and/or portable tools, new diagnostics, sensors and devices for monitoring and personalised services including but not limited to nanomedicine-based tools which promote a healthy lifestyle, well-being, mental health, self-care, improved citizen/healthcare professional interaction, personalised programmes for disease and disability management to, inter alia, enhance patients' autonomy, as well as support for knowledge infrastructures. Solutions will be developed and tested with the use of open innovation platforms such as large-scale demonstrators for social and service innovation.

1.5. *Methods and data*

1.5.1. *Improving health information and better use of health data*

The integration of infrastructures and information structures and sources (including those derived from cohort studies, protocols, data collections, indicators, health examination surveys etc.) as well as the standardisation, interoperability, storage, sharing of and access to data, will be supported to enable such data to be sustainable in the long-term and properly exploited. Attention should be given to data processing, knowledge management, modelling, visualisation, ICT-security and privacy-related issues. In particular, availability of information and data on negative results and adverse effects of treatment need to be improved.

1.5.2. Improving scientific tools and methods to support policy making and regulatory needs

There is a need to support research, development, integration and use of scientific tools, methods and statistics for rapid, accurate and predictive assessment of the safety, efficacy and quality of health interventions and technologies including new drugs, biologics, advanced therapies and medical devices. This is particularly relevant for new developments in domains concerning biopharmaceuticals, vaccines, antimicrobials, cell/tissue and gene therapies, organs and transplantation, specialist manufacturing, biobanks, new medical devices, combination products, diagnostic/treatment procedures, genetic testing, interoperability and e-health, including privacy aspects. Similarly, support for improved risk assessment methodologies, compliance frameworks, testing approaches and strategies relating to environment and health is required. There is also a need to support the development of relevant methods for assisting the assessment of ethical aspects of the above-mentioned domains.

1.5.3. Using in-silico medicine for improving disease management and prediction

Computer simulation-based medical systems using patient-specific data and building on systems medicine approaches and physiological modelling can be used to predict susceptibility to disease, disease evolution and the likely success of medical treatments. Model-based simulation can be used to support clinical trials, predictability of treatment response, and the personalisation and optimisation of treatment.

1.6. Health care provision and integrated care

1.6.1. Promoting integrated care

Supporting the management of chronic disease, including patients with disabilities, outside institutions also depends on improved cooperation between the providers of health and social or informal care. Research and innovative applications will be supported for decision making based on distributed information addressing both physical and mental health, including psychosocial aspects, and for providing evidence for large-scale deployments and market exploitation of novel solutions, including interoperable tele-health and tele-care services. Particularly in the context of demographic change, research and innovation to improve the organisation of long-term care delivery as well as policy and management innovation will also be supported. Implementing new and integrated care solutions shall aim at personal empowerment and enhancement of existing capabilities as well as concentrate on compensation of deficits.

1.6.2. Optimising the efficiency and effectiveness of healthcare provision and reducing inequalities by evidence-based decision making and dissemination of best practice, and innovative technologies and approaches

There is a need to support the development of a systemic approach to health technology assessment and health economics, as well as the gathering of evidence and dissemination of best practice and innovative technologies and approaches in the health and care sector, including ICT and e-health applications. Comparative analyses of the reform of public health systems in Europe and in third countries and assessments of their mid- to long-term economic and social impacts will be supported. Analyses of future health workforce needs both in terms of numbers and required skills in relation to new patterns of care will be supported. Research on the evolution of health inequalities, on their interplay with other economic and social inequalities and on the effectiveness of policies aiming to reduce them in Europe and beyond will be supported. Finally, there is a need to support the assessment of patient safety solutions and quality assurance systems, including the role of patients.

1.7. Specific implementation aspects

Implementation of this specific objective will include support for knowledge and technology transfer and other forms of dissemination, for large-scale piloting and demonstration actions, and for standardisation. In this way, market deployment of products and services will be accelerated, and scalable solutions for Europe and beyond will be validated. Such actions will not only support European industrial competitiveness and the involvement of innovative SMEs but will require the active involvement of all stakeholders. Synergies with other relevant programmes and activities, both public and private, at Union, national and international levels will be sought. In particular, synergies with activities developed in the context of the Health for Growth Programme will be sought.

The Scientific Panel for Health will be a science-led stakeholder platform which elaborates scientific input concerning this societal challenge. It will provide a coherent scientific focused analysis of research and innovation bottlenecks and opportunities related to this societal challenge, contribute to the definition of its research and innovation priorities, and encourage Union-wide scientific participation in it. Through active cooperation with stakeholders, it will help to build capabilities and to foster knowledge sharing and stronger collaboration across the Union in this field.

Consideration may be given to support relevant Joint Programming Initiatives (JPIs) and relevant public-public and public-private partnerships.

Appropriate links with the actions of relevant European Innovation Partnerships and the relevant aspects of the research and innovation agendas of European Technology Platforms will also be established.

2. FOOD SECURITY, SUSTAINABLE AGRICULTURE AND FORESTRY, MARINE, MARITIME AND INLAND WATER RESEARCH, AND THE BIOECONOMY

2.1. Sustainable agriculture and forestry

Appropriate knowledge, tools, services and innovations are necessary to support more productive, environmentally friendly resource-efficient and resilient agriculture and forestry systems that supply sufficient food, feed, biomass and other raw materials and deliver ecosystems services while at the same time protecting biodiversity and supporting the development of thriving rural livelihoods. Research and innovation will provide options for integrating agronomic and environmental goals into sustainable production, thus: increasing productivity and resource efficiency, including water use efficiency, of agriculture; increasing the safety of animal and plant production; reducing agricultural greenhouse gas emissions; reducing the production of waste; reducing leaching of nutrients and other chemical inputs from cultivated lands into terrestrial and aquatic environments; decreasing dependence from international plant derived protein imports to Europe; increasing the level of diversity in primary production systems; and fostering the recovery of biological diversity.

2.1.1. Increasing production efficiency and coping with climate change, while ensuring sustainability and resilience

Activities will enhance productivity as well as the adaptive capacity of plants, animals and production systems to cope with rapidly changing environmental/climatic conditions and increasingly scarce natural resources. The resulting innovations will help to move towards a low energy, low emission and low waste economy and to reduce natural resources demand along the entire food and feed supply chain. In addition to contributing to food security, new opportunities will be created for the use of biomass and by-products from agriculture for a wide range of non-food applications.

Multi-disciplinary approaches will be sought to improve the performance of plants, animals and micro-organisms, while ensuring efficient resource use (water, land, soil, nutrients, energy and other inputs) and the ecological integrity of rural areas. Emphasis will be placed on integrated and diverse production systems and agronomic practices, including the use of precision technologies and ecological intensification approaches to benefit both conventional and organic agriculture. Also urban greening will be promoted, with new forms of agriculture, horticulture and forestry in urban and peri-urban areas. These shall be considered by addressing new requirements for plant characteristics, cultivation methods, technologies, marketing and urban design, in relation with human health and well-being, environment and climate change. Genetic improvement of plants and animals for adaptation, health and productivity traits will call for all appropriate conventional and modern breeding approaches and for preservation and better use of genetic resources.

Due attention will be given to soil management for increasing the productivity of crops. Bearing in mind the overall objective of ensuring high quality and safe food production, plant and animal health will be promoted. Activities in the area of plant health and plant protection will increase knowledge and support the development of integrated environmentally friendly pest management strategies, products and tools to prevent the introduction of pathogens, control pest and diseases and reduce yield losses at pre- and post-harvest levels. In the area of animal health, strategies for the eradication or effective management of diseases, including zoonoses, and research on antimicrobial resistance will be promoted. Integrated control of disease, parasites and pests will be strengthened, starting from a better understanding of host-pathogen interactions, to surveillance, diagnostics and treatments. Studying the effects of practices on animal welfare will help meet societal concerns. The above listed areas will be underpinned by more fundamental research to address relevant biological questions as well as to support the development and implementation of Union policies and supported by adequate assessment of their economic and market potential.

2.1.2. Providing ecosystem services and public goods

Agriculture and forestry are unique systems delivering commercial products but also wider societal public goods (including cultural and recreational value) and important ecological services such as functional and in-situ biodiversity, pollination, water storage and regulation, soil functions, landscape, erosion reduction, resilience to flooding and droughts and carbon sequestration / greenhouse gas mitigation. Research activities will contribute to a better understanding of the complex interactions between primary production systems and ecosystems services and will support the provision of these public goods and services, through the delivery of management solutions, decision-support tools and the assessment

of their market and non-market value. Specific issues to be dealt with include the identification of rural and (peri-)urban farming/forest systems and landscape patterns likely to achieve these goals. Shifts in the active management of agricultural systems - including the use of technologies and change of practices - will increase greenhouse gas mitigation and the adaptive capacity of the agriculture sector to the adverse effects of climate change.

2.1.3. Empowerment of rural areas, support to policies and rural innovation

Development opportunities for rural communities will be mobilised by strengthening their capacity for primary production and delivery of ecosystems services as well as by opening avenues for the production of new and diversified products (including food, feed, materials and energy) which meet the increasing demand for low-carbon short-chain delivery systems. Socio-economic research and science and society studies along with the development of new concepts and institutional innovations is needed to ensure cohesion of rural areas and prevent economic and social marginalisation, foster diversification of economic activities (including the service sector), ensure appropriate relations between rural and urban areas, as well as facilitate knowledge exchange, demonstration, innovation and dissemination and foster participatory resource management. Also, there is a need to look at ways in which public goods in rural areas can be converted into local/regional socio-economic benefits. Innovation needs defined at regional and local levels will be complemented by cross-sectoral research actions at international, inter-regional and European levels. By providing the necessary analytical tools, indicators, integrated models and forward-looking activities, research projects will support policy makers and other actors in the implementation, monitoring and assessment of relevant strategies, policies and legislation, not only for rural areas but for the whole bioeconomy. Tools and data are also required to allow for proper assessment of potential trade-offs between various types of resource use (land, water, soil, nutrients, energy and other inputs) and bioeconomy products. Socio-economic and comparative assessment of farming/forestry systems and their sustainability performance will be addressed.

2.1.4. Sustainable forestry

The aim is to sustainably produce bio-based products ecosystems, services (including water-related and climate-mitigation services) and sufficient biomass, with due consideration to economical, ecological and social aspects of forestry as well as to regional differences. Overall, activities in the forestry sector will seek to promote multi-functional forests which deliver a variety of ecological, economic, and social benefits. Activities will focus on the further development of sustainable forestry systems which can address societal challenges and demands, including forest owners' needs, by putting in place multifunctional approaches that reconcile the need for delivering smart, sustainable and inclusive growth taking into account climate change. These sustainable forestry systems are instrumental in the strengthening of forest resilience and biodiversity protection and the need to meet the increased biomass demand. This will need to be underpinned by research on tree health and on forest protection and restoration from fire.

2.2. Sustainable and competitive agri-food sector for a safe and healthy diet

Consumer needs for safe, healthy, high quality and affordable food have to be addressed, while considering the impacts of food consumption behaviour and food and feed production on human health, the environment and the global ecosystem. Food and feed security and safety, the competitiveness of the European agri-food industry and the sustainability of food production, supply and consumption will be addressed, covering the whole food chain and related services, whether conventional or organic, from primary production to consumption. This approach will contribute to achieving food safety and security for all Europeans and eradication of hunger in the world; decreasing the burden of food- and diet-related diseases by promoting the shift towards healthy and sustainable diets, via consumer education and innovations in agriculture and the food industry; reducing water and energy consumption in food processing, transport and distribution; reducing food waste by 50 % by 2030; and achieving a broad diversity of healthy, high quality and safe food for all.

2.2.1. Informed consumer choices

Consumer preferences, attitudes, needs, behaviour, lifestyle and education as well as the cultural component of food quality will be addressed, and communication between consumers and the food chain research community and its stakeholders will be enhanced in order to improve public understanding of food production generally and to enable informed choice, sustainable and healthy consumption and their impacts on production, inclusive growth and quality of life, especially of vulnerable groups. Social innovation will respond to societal challenges, and innovative predictive models and methodologies in consumer science will deliver comparable data and lay the ground for responses to Union policy needs.

2.2.2. Healthy and safe foods and diets for all

Nutritional needs, a balanced diet and the impact of food on physiological functions and on physical and mental performance will be addressed as well as the links between diet, demographic trends (such as ageing) and chronic diseases and disorders. Dietary solutions and innovations leading to improvements in health and well-being will be identified. Chemical and microbial food and feed contamination, risks and exposures as well as allergens will be analysed, assessed, monitored, controlled and traced throughout the food, feed and drinking water supply chains from production and storage to processing, packaging, distribution, catering, and preparation at home. Food safety innovations, improved tools for risk and risk-benefit assessment and for risk communication and improved food safety standards to be implemented throughout the food chain will lead to enhanced consumer trust and protection in Europe. Globally improved food safety standards will also help to strengthen the competitiveness of the European food industry.

2.2.3. A sustainable and competitive agri-food industry

The needs for the food and feed industry to cope with social, environmental, climate and economic change from local to global will be addressed at all stages of the food and feed production chain, including food design, processing, packaging, process control, waste reduction, by-product valorisation and the safe use or disposal of animal by-products. Innovative and sustainable resource-efficient technologies and processes as well as diversified, safe, healthy, affordable and high quality products will be generated and underpinned with science-based evidence. This will strengthen the innovation potential of the European food supply chain, enhance its competitiveness, create economic growth and employment and allow the European food industry to adapt to changes. Other aspects to address are traceability, logistics and services, socio-economic and cultural factors, animal welfare and other ethical issues, the resilience of the food chain against environmental and climate risks, the limitation of negative impacts of food chain activities and of changing diets and production systems on the environment.

2.3. *Unlocking the potential of aquatic living resources*

One of the main features of living aquatic resources is that they are renewable and their sustainable exploitation relies on in-depth understanding and a high degree of quality and productivity of the aquatic ecosystems. The overall objective is to manage aquatic living resources to maximise social and economic benefits/returns from Europe's oceans, seas and inland waters.

This includes the need to optimise the sustainable contribution of fisheries and aquaculture to food security in the context of the global economy and to reduce the Union's heavy dependence on seafood imports (approximately 60 % of total European seafood consumption depends on import, and the Union is the world's largest importer of fisheries products), and to boost marine and maritime innovation through biotechnologies to fuel smart "blue" growth. In line with current policy frameworks, in particular the Integrated Maritime Policy and the Marine Strategy Framework Directive⁽¹⁾, research activities will underpin the ecosystem approach to the management and exploitation of natural resources, while enabling sustainable use of marine goods and services, and the 'greening' of the sectors involved.

2.3.1. Developing sustainable and environmentally friendly fisheries

The new Common Fisheries Policy, the Marine Strategy Framework Directive and the Union's 2020 Biodiversity Strategy call for European fisheries to be more sustainable, competitive, and environmentally friendly. The move towards an ecosystem approach to fisheries management will require an in-depth understanding of marine ecosystems. New insights, tools and models will be developed to improve understanding of what makes marine ecosystems healthy and productive and to assess, evaluate and mitigate the impact of fisheries on marine ecosystems (including deep sea). New harvest strategies and technologies will be developed which provide services to society while maintaining healthy marine ecosystems. The socio-economic effects of management options will be measured. The effects and adaptation to environmental changes, including climate change, will also be investigated along with new assessment and management tools to deal with risk and uncertainty. Activities will support research on the biology, genetics and dynamics of fish populations, on the role of key species in the ecosystems, on fishing activities and their monitoring, on fishing sector behaviours and adaptation to new markets (e.g. eco-labelling) and on fishing industry involvement in decision making. The shared use of maritime space with other activities, particularly in the coastal zone, and its socio-economic impact will also be addressed.

⁽¹⁾ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

2.3.2. Developing competitive and environmentally friendly European aquaculture

Sustainable aquaculture has a large potential for the development of healthy, safe and competitive products tailored to consumer needs and preferences as well as for environmental services (bioremediation, land and water management etc.) and energy production but it needs to be fully realised in Europe. Knowledge and technologies will be strengthened in all aspects of domestication of established species and diversification for new species while taking into account the interactions between aquaculture and the aquatic ecosystems in order to reduce the impact of aquaculture on the environment, and the effects of climate change and how the sector can adapt to them. Continuation of research efforts is particularly needed on health and diseases of farmed aquatic organisms (including prevention and mitigation tools and methods), on nutrition issues (including development of alternative tailor-made ingredients and feeds for aquaculture), and on reproduction and breeding which are among the main obstacles in the sustainable development of European aquaculture. Innovation will also be promoted for sustainable production systems inland, on the coastal zone and offshore. The specificities of the European ultra-periphery will also be taken into account. Emphasis will also be given to understanding the social and economic dimensions of the sector to underpin cost- and energy-efficient production matching with the market and consumer demands, while ensuring competitiveness and attractive prospects for investors and producers.

2.3.3. Boosting marine and maritime innovation through biotechnology

More than 90 % of the marine biodiversity remains unexplored, offering a huge potential for discovery of new species and applications in the field of marine biotechnologies, which is foreseen to generate a 10 % annual growth for this sector. Support will be given to further explore and exploit the large potential offered by marine biodiversity and aquatic biomass to bring new innovative and sustainable processes, products and services on the markets with potential applications in sectors including chemical and material industries, fisheries and aquaculture, and pharmaceutical, energy supply and cosmetic industries.

2.4. Sustainable and competitive bio-based industries and supporting the development of a European bioeconomy

The overall objective is to accelerate the conversion of fossil-based European industries to low-carbon, resource-efficient and sustainable ones. Research and innovation will provide the means to reduce the Union's dependency on fossil fuels and contribute to meeting its energy and climate change policy targets for 2020 (10 % of transport fuels from renewables and a 20 % reduction of greenhouse gas emissions). Estimates conclude that a shift to biological raw materials and biological processing methods could save up to 2,5 billion tons of CO₂ equivalent per year by 2030, increasing markets for bio-based raw materials and new consumer products substantially. Reaping these potentials requires building a broad knowledge base and developing relevant (bio)technologies, focusing mainly on three essential elements: a) transforming current fossil-based processes by resource- and energy-efficient biotechnology-based ones; b) establishing reliable, sustainable and appropriate supply chains of biomass, byproducts and waste streams and a wide network of biorefineries throughout Europe; and c) supporting market development for bio-based products and processes, taking account of the associated risks and benefits. Synergies will be sought with the specific objective 'Leadership in Enabling and Industrial Technologies'.

2.4.1. Fostering the bioeconomy for bio-based industries

Major progress towards low-carbon, resource-efficient and sustainable industries will be supported through discovery and exploitation of terrestrial and aquatic biological resources, while minimising adverse environmental impacts and water footprint, for example through the establishment of closed circuits of nutrients, including between urban and rural areas. Potential trade-offs between the various uses of biomass should be examined. Activities should focus on non-food-competitive biomass and also consider the sustainability of related land use systems. The development of bio-based products and biologically active compounds for industries and consumers with novel qualities, functionalities and improved sustainability will be targeted. The economic value of renewable resources, biowaste and by-products will be maximised through new and resource-efficient processes, including the transformation of urban biowaste into agricultural inputs.

2.4.2. Developing integrated biorefineries

Activities will be supported to boost sustainable bioproducts, intermediates and bioenergy/biofuels, predominantly focusing on a cascade approach, prioritising the generation of high added value products. Technologies and strategies will be developed to assure the raw material supply. Enhancing the range of types of biomass for use in second and third generation biorefineries, including forestry, biowaste and industrial by-products, will help avoid food/fuel conflicts and support economic and environmentally friendly development of rural and coastal areas in the Union.

2.4.3. Supporting market development for bio-based products and processes

Demand-side measures will open new markets for biotechnology innovation. Standardisation and certification at Union and international levels is needed for, amongst others, determination of bio-based content, product functionalities and biodegradability. Methodologies and approaches to life-cycle analysis need to be further developed and continuously adapted to scientific and industrial advances. Research activities supporting product and process standardisation (including harmonisation of international standards) and regulatory activities in the field of biotechnology are considered essential for supporting the creation of new markets and for realising trade opportunities.

2.5. *Cross-cutting marine and maritime research*

The aim is to increase the impact of Union seas and oceans on society and economic growth through the exploitation of marine resources as well as the use of different sources of marine energy and the wide range of different uses that is made of the seas. Activities shall focus on cross-cutting marine and maritime scientific and technological challenges with a view to unlocking the potential of seas and oceans across the range of marine and maritime industries, while protecting the environment and adapting to climate change. A strategic coordinated approach for marine and maritime research across all challenges and priorities of Horizon 2020 will also support the implementation of relevant Union policies to help deliver key blue growth objectives.

Due to the multidisciplinary nature of marine and maritime research, close coordination and joint activities with other parts of Horizon 2020, especially the specific objective "Climate action, environment, resource efficiency and raw materials" of the priority "Societal challenges", will be pursued.

2.5.1. Climate change impact on marine ecosystems and maritime economy

Activities will be supported to increase the current understanding of the functioning of marine ecosystems and the interactions between oceans and the atmosphere. This will increase the ability to assess the role of the oceans on climate and the impact of climate change and ocean acidification on marine ecosystems and coastal areas.

2.5.2. Developing the potential of marine resources through an integrated approach

Boosting long-term, sustainable maritime growth and creating synergies across all maritime sectors requires an integrated approach. Research activities will focus on preserving the marine environment as well as on the impact of maritime activities and products on non-maritime sectors. This will allow advances in the field of eco-innovation, such as new products, processes and the application of management concepts, tools and measures, to assess and mitigate the impact of human pressures on the marine environment in order to advance towards a sustainable management of maritime activities.

2.5.3. Cross-cutting concepts and technologies enabling maritime growth

Advances in cross-cutting enabling technologies (e.g. ICT, electronics, nanomaterials, alloys, biotechnologies, etc.) and new developments and concepts in engineering will continue to enable growth. Activities will allow major breakthroughs in the field of marine and maritime research and ocean observation (e.g. deep-sea research, observing systems, sensors, automated systems for monitoring of activities and surveillance, screening marine biodiversity, marine geohazards and remotely operated vehicles). The aim is to reduce the impact on the marine environment (e.g. underwater noise and introduction of invasive species and pollutants from sea and land) and to minimise the carbon foot-print of human activities. Cross-cutting enabling technologies will underpin the implementation of marine and maritime Union policies.

2.6. *Specific implementation aspects*

Beyond the general sources of external advice, specific consultations will be sought from the Standing Committee on Agricultural Research (SCAR) on a range of issues, including strategic aspects through its foresight activity and the coordination of agricultural research between national and Union levels. Appropriate links with the actions of relevant European Innovation Partnerships and the relevant aspects of the research and innovation agendas of European Technology Platforms will also be established.

The impact and dissemination of research results will be actively supported through specific actions on communication, knowledge exchange and the involvement of various actors all along the projects. Implementation will combine a wide range of activities, including substantial demonstration and pilot activities. Easy and open access to research results and best practices will be fostered.

The specific support to SMEs will allow for an increased participation of farms, fishermen and other types of SMEs in research and demonstration activities. The specific needs of the primary production sector for innovation support services and outreach structures will be taken into account. Implementation will combine a wide range of activities, including knowledge exchange actions where the involvement of farmers or other primary producers and intermediaries will be actively ensured in view of summarising the research needs of end-users. Easy and open access to research results and best practices will be fostered.

Support to standardisation and regulatory aspects will be used to help accelerate market deployment for novel bio-based goods and services.

Consideration may be given to support relevant Joint Programming Initiatives (JPIs) and relevant public-public and public-private partnerships.

Synergies with and further deployment by other Union funds related to this societal challenge, such as the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), will be sought.

Forward-looking activities will be undertaken across the sectors of the bioeconomy, including the development of data bases, indicators and models addressing global, European, national and regional dimensions. A European bioeconomy observatory shall be developed for mapping and monitoring Union and global research and innovation activities including technology assessment, developing key performance indicators, and monitoring innovation policies in the bioeconomy.

3. SECURE, CLEAN AND EFFICIENT ENERGY

3.1. *Reducing energy consumption and carbon footprint by smart and sustainable use*

The energy sources and consumption patterns of Europe's industries, transport systems, buildings, districts, towns and cities are largely unsustainable, leading to significant environmental and climate change impacts. Real-time energy management for new and existing near-zero-emission, near-zero-energy and positive energy buildings, retrofitted buildings as well as active buildings, highly efficient industries and mass take-up of energy-efficient approaches by companies, individuals, communities, cities and districts will require not only technological advances, but also non-technological solutions such as new advisory, financing and demand management services and input from the behavioural and social sciences while at the same time taking into account questions of public acceptance. In this way improved energy efficiency may provide one of the most cost-effective ways to reduce energy demand, thereby enhancing security of energy supply, reducing environmental and climate impacts and boosting competitiveness. To meet these challenges the further development of renewable energies and the tapping of energy efficiency potentials are important.

3.1.1. *Bringing to mass market technologies and services for a smart and efficient energy use*

Reducing energy consumption and eliminating energy waste, while providing the services that society and economy need, requires not only that more efficient, cost-competitive, environmentally friendly and smarter equipment, products and services are brought to mass market but also the integration of components and devices in such a way that they cooperate to optimise the overall energy use of buildings, services and industry.

To ensure full adoption and full benefits for consumers (including the possibility for them to monitor their own consumption), energy performance of these technologies and services needs to be customised and optimised for and in their application environments. This requires researching, developing and testing innovative ICT and monitoring and control techniques as well as demonstration projects and pre-commercial deployment activities to ensure interoperability and scalability. Such projects should aim to contribute to significantly reducing or optimising the overall energy consumption and energy costs by developing common procedures to collect, collate and analyse energy consumption and emissions data to improve the measurability, transparency, public acceptability, planning and visibility of energy use and its environmental impacts. Security and privacy by design to protect monitoring and control techniques should be safeguarded in these processes. Developing platforms and applying them for verifying the stability of such systems will help to ensure reliability.

3.1.2. *Unlocking the potential of efficient and renewable heating-cooling systems*

A substantial share of energy is consumed for heating or cooling purposes across the Union, and the development of cost-effective and efficient technologies and system integration techniques, such as network connectivity with standardised languages and services in this area, would have a major impact in reducing energy demand. This requires research and

demonstration of new design techniques and systems and components for industrial, commercial and residential applications, for example in decentralised and district supply of hot water, space heating and cooling. This should encompass different technologies, such as solar, thermal, geothermal, biomass, heat pumps, combined heat and power, and recovery of waste energy, and meet the requirements of near-zero-energy buildings and districts and support smart buildings. Further breakthroughs are needed, in particular, in storage for thermal energy from renewable energy sources and to foster the development and deployment of efficient combinations of hybrid heating and cooling systems, for centralised and de-centralised applications.

3.1.3. Fostering European Smart Cities and Communities

Urban areas are one of the largest consumers of energy in the Union and emit a correspondingly large share of greenhouse gases, while generating a substantial amount of air pollutants. At the same time, urban areas are affected by decreasing air quality and climate change and have to develop their own mitigation and adaptation strategies. Finding innovative energy solutions (e.g. energy efficiency, electricity and heating and cooling supply systems, and integration of renewables in the built environment), integrated with transport systems, smart construction and urban planning solutions, waste and water treatment as well as ICT solutions for the urban environment is therefore crucial in the transformation towards a low-carbon society. Targeted initiatives in support to the convergence of industrial value chains of the energy, transport and ICT sector for smart urban applications need to be envisaged. At the same time, new technological, organisational, planning and business models need to be developed and tested at full scale according to the needs and means of cities and communities and their citizens. Research is also needed to understand the social, environmental, economic and cultural issues that are involved in this transformation.

3.2. Low-cost, low-carbon electricity supply

Electricity will play a central role in the establishment of an environmentally sustainable low-carbon economy. Renewable energy sources lie at the core of this development. The uptake of low-carbon electricity generation is too slow due to the high costs involved. There is a pressing need to find solutions that reduce costs significantly, with enhanced performance, sustainability and public acceptance to accelerate the market deployment of low-cost, reliable and low-carbon electricity generation. Activities shall focus on research, development and full scale demonstration of innovative renewables, including small and micro-scale energy systems, efficient, flexible and low-carbon emission fossil power plants and carbon capture and storage, or CO₂ re-use technologies.

3.2.1. Developing the full potential of wind energy

The objective for wind energy is to reduce the cost of electricity production of onshore and offshore wind by up to about 20 % by 2020 compared to 2010, to increasingly move offshore, and to enable proper integration in the electricity grid. The focus will be on the development, testing and demonstration of next generation wind energy conversion systems of larger scale (including innovative energy storage systems), higher conversion efficiencies and higher availabilities for both on- and offshore (including remote locations and hostile weather environments) as well as new serial manufacturing processes. Environmental and biodiversity aspects of wind energy development will be taken into account.

3.2.2. Developing efficient, reliable and cost-competitive solar energy systems

The cost of solar energy, covering photovoltaics (PV) and concentrating solar power (CSP), should be halved by 2020 compared to 2010, if it is to substantially increase its share of the electricity market.

For PV, this will need further research on, inter alia, novel concepts and systems as well as demonstration and testing of mass production with a view to large-scale deployment and building integration of PV.

For CSP, the focus will be on developing ways to increase efficiency while reducing costs and environmental impact, enabling industrial up-scaling of demonstrated technologies by building first-of-a-kind power plants. Solutions to efficiently combine the production of solar electricity with water desalination will be tested.

3.2.3. Developing competitive and environmentally safe technologies for CO₂ capture, transport, storage and re-use

Carbon capture and storage (CCS) is a key option that has to be widely deployed on a commercial scale at global level to meet the challenge of a decarbonised power generation and low-carbon industry by 2050. The objective is to minimise the extra-cost of CCS in the power sector for coal-fired, gas-fired and oil-shale fired power plants compared to equivalent plants without CCS and energy intensive industrial installations.

Support will be given, in particular, to demonstrate the full CCS chain for a representative portfolio of different capture, transport, storage and re-use technology options. This will be accompanied by research to further develop these technologies and to deliver more competitive capture technologies, improved components, integrated systems and processes, safe geological storage and rational solutions and public acceptance for the re-use of captured CO₂ to enable the commercial deployment of CCS technologies for fossil fuel power plants and other carbon-intensive industries going into operation after 2020. Support will also be given to clean coal technologies as technologies complementary to CCS.

3.2.4. Developing geothermal, hydro, marine and other renewable energy options

Geothermal, hydro, and marine energy as well as other renewable energies can contribute to the decarbonisation of the European energy supply while enhancing its flexibility to variable production and use of energy. The objective is to further develop and bring to commercial maturity cost-effective and sustainable technologies, enabling large-scale deployment at an industrial scale including grid integration. Enhanced geothermal systems is a technology that should be further researched, developed and demonstrated notably in the fields of exploration, drilling and heat production. Ocean energies such as tidal, current or wave energy and osmotic power offer zero-emission and predictable energy and can also contribute to the development of the full potential of offshore wind energy (combination of marine energies). Research activities should include laboratory scale innovative research into low-cost reliable components and materials in a high corrosion, biofouling environment as well as demonstrations under the varied conditions found in European waters.

3.3. *Alternative fuels and mobile energy sources*

Meeting Europe's energy and CO₂ reduction goals also requires the development of new fuels and mobile energy sources. This is particularly important to meet the challenge of smart, green and integrated transport. Value chains for these technologies and alternative fuels are not sufficiently developed and must be accelerated to demonstration scale.

3.3.1. Making bioenergy more competitive and sustainable

The objective for bioenergy is to bring to commercial maturity the most promising technologies, to permit large-scale, sustainable production of advanced biofuels of different value chains in a bio-refinery approach for surface, maritime and air transport, and highly efficient combined heat and power and green gas from biomass and waste, including CCS. The aim is to develop and demonstrate the technology for different bioenergy pathways at different scales, taking account of differing geographical and climate conditions and logistical constraints, while minimising negative environmental and social impacts linked to land use. Longer term research will support the development of a sustainable bioenergy industry beyond 2020. These activities will complement upstream (e.g. feedstock, bio-resources) and downstream (e.g. integration into vehicle fleets) research activities carried out in other relevant specific objectives of the priority "Societal challenges".

3.3.2. Reducing time to market for hydrogen and fuel cell technologies

Fuel cells and hydrogen have a great potential to contribute to addressing energy challenges facing Europe. Bringing these technologies to market competitiveness will require significant cost decrease. As an illustration the cost of fuel cell systems for transportation will have to be reduced by a factor of ten over the next 10 years. To do so, support will be given to demonstrations and pre-commercial deployment activities for portable, stationary and micro-stationary, transport applications and the related services, as well as long-term research and technology development to build up a competitive fuel cell chain and a sustainable hydrogen production and infrastructure across the Union. Strong national and international cooperation is needed to enable market breakthroughs of a sufficient scale, including the development of appropriate standards.

3.3.3. New alternative fuels

There is a range of new options with long term potential, such as powdered metal fuel, fuel from photosynthetic micro-organisms (in water and land environments) and from artificial photosynthesis mimics and solar fuels. These new paths may offer potential for more efficient energy conversion and more cost-competitive and sustainable technologies. Support will be given notably to bring these new and other potential technologies from laboratory to demonstration scale size in view of pre-commercial demonstration by 2020.

3.4. *A single, smart European electricity grid*

Electricity networks have to respond to three interrelated challenges to enable a consumer-friendly and increasingly decarbonised electricity system: creating a pan-European market; integrating a massive increase of renewable energy sources; and managing interactions between millions of suppliers and customers (where increasingly households will be both), including owners of electrical vehicles. Future electricity networks will play a key role for the transition to a decarbonised energy system, while providing additional flexibility and cost benefits to the consumers. The overriding goal by 2020 is to transmit and distribute about 35 %⁽¹⁾ of electricity from dispersed and concentrated renewable energy sources.

A strongly integrated research and demonstration effort will support the development of new components, technologies, and procedures which will respond to the particularities of both the transmission and distribution side of the grid, as well as flexible energy storage.

All options to successfully balance energy supply and demand must be considered to minimise emissions and costs. New smart energy grid technologies, back-up and balancing technologies enabling higher flexibility and efficiency, including conventional power plants, new grid components to improve the transmission capacity and quality as well as the reliability of grids have to be developed. New power systems technologies and a bi-directional digital communication infrastructure must be researched and integrated into the electricity grid as well as used to establish smart interactions with other energy grids. This will contribute to better planning, monitoring, control and secure operation of networks, including standardisation issues, in normal and emergency conditions as well as to managing the interactions between suppliers and customers and to transporting, managing and trading energy flow. For the deployment of future infrastructure, indicators and cost benefit analysis should take into account energy system-wide considerations. In addition, synergies between smart grids and telecommunication networks will be maximised in order to avoid duplication of investments, to increase safety and to accelerate the take up of smart energy services.

Novel energy storage means (including both batteries and large scale storage means such as power-to-gas) and vehicle systems will provide the required flexibility between production and demand. Improved ICT technologies will further increase the flexibility of electricity demand by providing customers (industrial, commercial and residential) with the necessary automation tools. Security, reliability and privacy are important issues here as well.

New planning, market and regulatory designs need to drive the overall efficiency and cost-effectiveness of the electricity supply chain and interoperability of infrastructures as well as the emergence of an open and competitive market for smart energy grid technologies, products and services. Large-scale demonstration projects are needed to test and validate solutions and assess the benefits for the system and for individual stakeholders, before deploying them across Europe. This should be accompanied by research to understand how consumers and businesses react to economic incentives, behavioural changes, information services and other innovative opportunities provided by smart grids.

3.5. *New knowledge and technologies*

Novel, more efficient and cost-competitive as well as clean, safe and sustainable energy technologies will be required for the long term. Progress should be accelerated through multi-disciplinary research and joint implementation of pan-European research programmes and world-class facilities to achieve scientific breakthroughs in energy-related concepts and enabling technologies (e.g. nano-science, material science, solid state physics, ICT, bio-science, geosciences, computation and space). Safe and environmentally sustainable unconventional gas and oil resources exploration and production as well as the development of innovations in future and emerging technologies will also be supported, where appropriate.

Advanced research will also be needed to provide solutions to adapt energy systems to changing climatic conditions. Priorities may be adjusted to new scientific and technological needs and opportunities or newly-observed phenomena which could indicate promising developments or risks to society and which may emerge during the course of implementation of Horizon 2020.

3.6. *Robust decision making and public engagement*

Energy research should support and be strongly aligned with the energy policy. Extensive knowledge and research on the uptake and use of energy technologies and services, infrastructure, markets (including regulatory frameworks) and consumer behaviour is required to provide policy makers with robust analyses. Support will be given, in particular

⁽¹⁾ Commission Staff Working Document SEC(2009) 1295 accompanying the Communication on "Investing in the Development of Low Carbon Technologies (SET-Plan)" (COM(2009) 519 final).

in the frame of the Commission's Information System for the SET-Plan (SETIS), to develop robust and transparent theories, tools, methods, models and forward-looking and perspective scenarios to assess the main economic and social issues related to energy; to build databases and scenarios for an enlarged Union and for the assessment of the impact of energy and energy-related policies on the security of supply, consumption, the environment, natural resources, climate change, society and competitiveness of the energy industry; and to carry out socio-economic research activities as well as science in society studies.

Taking advantage of the possibilities offered by web and social technologies, and consumer behaviour, including that of vulnerable consumers such as persons with disabilities and behavioural changes, will be studied in open innovation platforms such as living labs and large-scale demonstrators for service innovation as well as through panel surveys, while ensuring privacy.

3.7. Market uptake of energy innovation - building on Intelligent Energy Europe (IEE)

Innovative market uptake and replication solutions are essential for the roll-out of new energy technologies in time and through a cost-effective implementation. In addition to technology-driven research and demonstration, this requires actions with clear Union added value aiming to develop, apply, share and replicate non-technological innovations with a high leverage factor in the Union's sustainable energy markets across disciplines and levels of governance.

Such innovations will focus on creating favourable market conditions at regulatory, administrative and financing level for low-carbon, renewable and energy-efficient technologies and solutions. Support will be given to measures facilitating the energy policy implementation, preparing the ground for roll-out of the investments, supporting capacity-building and acting on public acceptance. Attention will also be given to innovation for the smart and sustainable use of existing technologies.

Research and analysis repeatedly confirm the crucial role of the human factor in the success and failure of sustainable energy policies. Innovative organisational structures, the dissemination and exchange of good practices and specific training and capacity-building actions will be encouraged.

3.8. Specific implementation aspects

The priority setting for the implementation of the activities in this societal challenge is led by the need to strengthen energy research and innovation at the European level. A main aim will be to support the implementation of the research and innovation agenda of the Strategic Energy Technology Plan (SET Plan) ⁽¹⁾ to achieve the objectives of the Union's energy and climate change policy. The SET Plan roadmaps and implementation plans will therefore provide a valuable input for the formulation of the work programmes. The SET Plan governance structure will be used as a principle basis for strategic priority setting and the coordination of energy research and innovation across the Union.

The non-technological agenda will be guided by the Union's energy policy and legislation. The enabling environment for mass deployment of demonstrated technological and service solutions, processes and policy initiatives for low-carbon technologies and energy efficiency across the Union shall be supported. This may involve support to technical assistance for the development and roll-out of energy efficiency and renewable energy investments.

In the field of market uptake, activities shall build upon and further enhance those undertaken within the Intelligent Energy Europe (IEE) programme.

Partnering with European stakeholders will be important to share resources and implement joint activities. It may be envisaged, on a case-by-case basis, that existing European Industrial Initiatives (EII) of the SET Plan are turned into formalised public-private partnerships, if considered appropriate, to increase the level and coherence of funding and to stimulate joint research and innovation actions among both public and private stakeholders. Consideration will be given to provide support, including with Member States, to alliances of public research performers, in particular the European Energy Research Alliance (EERA) established under the SET Plan to pool public research resources and infrastructures to address critical research areas of European interest. International coordination actions shall support the SET Plan priorities according to the variable geometry principle, taking account of countries' capabilities and specificities. Appropriate links with the actions of relevant European Innovation Partnerships and the relevant aspects of the research and innovation agendas of European Technology Platforms will also be established.

⁽¹⁾ COM(2007) 723.

Consideration may be given to support relevant Joint Programming Initiatives (JPIs) and relevant public-public and public-private partnerships. Activities shall also focus on increasing the support and promoting the involvement of SMEs.

The Commission's Information System for the SET Plan (SETIS) will be mobilised to develop, together with stakeholders, key performance indicators (KPIs) to monitor the progress of implementation. These KPIs will be revised on a regular basis to account of the latest developments. More broadly, implementation under this societal challenge will seek to improve the coordination of relevant Union programmes, initiatives and policies, such as cohesion policy, in particular through the national and regional strategies for smart specialisation, and the emission trading schemes (ETS), for example concerning support to demonstration projects.

4. SMART, GREEN AND INTEGRATED TRANSPORT

4.1. *Resource-efficient transport that respects the environment*

Europe has set a policy target of achieving a 60 % reduction of CO₂ by 2050 compared to 1990 levels. It aims at halving the use of 'conventionally-fuelled' cars in cities and achieving virtually CO₂-free city logistics in major urban centres by 2030. Low-carbon fuels in aviation should reach 40 % by 2050, and CO₂ emissions from maritime bunker fuels should be reduced by 40 % by 2050 ⁽¹⁾ compared to 2005 levels.

It is essential to reduce this environmental impact through targeted technological improvement, bearing in mind that each mode of transport faces varying challenges and is characterised by specific technology integration cycles.

Research and innovation will substantially contribute to the development and take up of the necessary solutions for all transport modes, which will drastically reduce transport emissions that are harmful to the environment (such as CO₂, NO_x, SO_x and noise), lower the dependence of transport on fossil fuels, and hence reduce transport impact on biodiversity and climate change and preserve natural resources.

This will be done through work on the following specific activities:

4.1.1. Making aircraft, vehicles and vessels cleaner and quieter will improve environmental performance and reduce perceived noise and vibration

The activities in this domain will focus on the end products, but will also address lean and ecological design and manufacturing processes, considering the entire life cycle process and with recyclability integrated in the design phase. Activities will also cover the upgrading of existing products and services by integration of new technologies.

- (a) Developing and accelerating the take-up of cleaner and quieter propulsion technologies is important for reducing or eliminating impacts on climate and health of European citizens, e.g. CO₂, noise and pollution from transport. New and innovative solutions are necessary, based on electric engines and batteries, hydrogen and fuel cells, gas-powered engines, advanced architectures and technologies in engines or hybrid propulsion. Technological breakthroughs will also help improve the environmental performance of traditional and new propulsion systems.
- (b) Exploring options for the use of low emission alternative energies will help reduce the consumption of fossil fuels. This includes using sustainable fuels and electricity from renewable energy sources in all modes of transport including aviation, reducing fuel consumption through energy harvesting or diversified energy supply and other innovative solutions. New holistic approaches will be pursued encompassing vehicles, energy storage, energy supply, fuelling and charging infrastructure, including vehicle-to-grid interfaces and innovative solutions for the use of alternative fuels.
- (c) Improving the overall performance of aircraft, vessels and vehicles by reducing their weight and lowering their aerodynamic hydrodynamic or rolling resistance by using lighter materials, leaner structures and innovative design will contribute to lower fuel consumption.

⁽¹⁾ Commission White Paper on "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system" (COM(2011) 144 final).

4.1.2. Developing smart equipment, infrastructures and services

This will help optimise transport operations and reduce resource consumption. The focus will be on solutions for the efficient planning, design, use and management of airports, ports, logistic platforms and surface transport infrastructures, as well as on autonomous and efficient maintenance, monitoring and inspection systems. New policies, business models, concepts, technologies and IT solutions are to be adopted to increase capacity. Particular attention will be given to the climate resilience of equipment and infrastructures, cost-efficient solutions based on a life-cycle approach, and the wider take-up of new materials and technologies allowing for more efficient and lower cost maintenance. Attention will also be paid to accessibility, user friendliness and social inclusiveness.

4.1.3. Improving transport and mobility in urban areas

This will benefit a large and increasing share of the population which lives and works in cities or uses them for services and leisure. New mobility concepts, transport organisation, multimodal accessibility models, logistics, provision of innovative vehicles and urban public services and planning solutions need to be developed and tested, which will contribute to reduce congestion, air pollution and noise and improve the efficiency of urban transport. Public and non-motorised transport as well as other resource-efficient transport options for passengers and freight should be developed as a real alternative to the use of private motor vehicles, supported by greater use of intelligent transport systems as well as by innovative supply and demand management. Special emphasis shall be given to the interaction between the transport system and other urban systems.

4.2. Better mobility, less congestion, more safety and security

Relevant European transport policy goals aim to optimise performance and efficiency in the face of growing demands for mobility, to make Europe the safest region for aviation, railways and waterborne transport and to move towards the target of zero fatalities in road transport by 2050 and of halving the road casualties by 2020. By 2030, 30 % of road freight transport over 300 kilometres should shift to rail and waterborne transport. A seamless, accessible, affordable, user-oriented and efficient pan-European transport of people and goods, also internalising external costs, requires a new European multimodal transport management, information and payment system, as well as efficient interfaces between long distance and urban mobility networks.

A better European transport system will contribute to a more efficient use of transport, improve the quality of life of citizens and support a healthier environment.

Research and innovation will make important contributions to these ambitious policy goals through activities in the following specific activities:

4.2.1. A substantial reduction of traffic congestion

This can be achieved by implementing an intelligent, multi-modal and fully intermodal 'door-to-door' transport system and by avoiding unnecessary use of transport. This means promoting greater integration between transport modes, the optimisation of transportation chains and better integrated transport operations and services. Such innovative solutions will also facilitate accessibility and passenger choices, including for the ageing population and vulnerable users, and provide opportunities to reduce congestion by improving incident management and the development of traffic optimisation schemes.

4.2.2. Substantial improvements in the mobility of people and freight

This can be achieved through the development, demonstration and widespread use of intelligent transport applications and management systems. This entails planning demand analysis and management, information and payment systems that are interoperable Europe-wide, and the full integration of information flows, management systems, infrastructure networks and mobility services into a new common multi-modal framework based on open platforms. This will also ensure flexibility and rapid responses to crisis events and extreme weather conditions by reconfiguring travel and haulage across modes. New positioning, navigation and timing applications, made possible through the Galileo and the European Geostationary Navigation Overlay Service (EGNOS) satellite navigation systems, will be instrumental in achieving this objective.

- (a) Innovative air traffic management technologies will contribute to a step-change in safety and efficiency with rapidly increasing demand, to achieve improved punctuality, to reduce time spent in travel-related procedures at airports and to achieve resilience in the air transport system. The implementation and further development of the 'Single European Sky' will be supported with research and innovation activities providing solutions for increased automation and

autonomy in air traffic management and aircraft operation and control, better integration of air and ground components, and novel solutions for the efficient and seamless handling of passengers and freight throughout the transport system.

- (b) For waterborne transport, improved and integrated planning and management technologies will contribute to the emergence of a 'Blue Belt' in the seas around Europe, improving port operations, and to a suitable framework for inland waterways.
- (c) For rail and road, the optimisation of network management and interoperability will improve the efficient use of infrastructure and make cross-border operations easier. Comprehensive cooperative road traffic management and information systems will be developed, relying on vehicle-to-vehicle and vehicle-to-infrastructure communication.

4.2.3. Developing new concepts of freight transport and logistics

This can reduce pressure on the transport system and the environment and improve safety and freight capacity. The activities can, for example, combine high performance and low environmental impact vehicles with smart, secure on-board and infrastructure-based systems. This should be based on an integrated logistics approach in the field of transport. Activities will also support the development of the e-Freight vision of a paperless freight transport process, where electronic information flows, services and payments are linked to physical freight flows across transport modes.

4.2.4. Reducing accident rates, fatalities and casualties and improving security

This will be achieved by addressing aspects inherent to the organisation, management and monitoring of performance and risk of transport systems and by focusing on the design, manufacturing and operations of aircraft, vehicles, vessels, infrastructures and terminals. The focus will be on passive and active safety, preventive safety and enhanced automation and training processes to reduce the risk and impact of human errors. To better anticipate, assess and mitigate the impact of weather, natural hazards and other crisis situations, special tools and techniques will be devised. Activities will also focus on the integration of security aspects in the planning and management of passenger and freight flows, on the conception of aircraft, vehicles and vessels, on traffic and system management and on the design of transport infrastructures and of freight and passenger terminals. Intelligent transport and connectivity applications may also provide useful tools for enhanced security. Activities will also focus on improving the safety of all road users, especially those at greatest risk, particularly in urban areas.

4.3. Global leadership for the European transport industry

By staying ahead in technological development and improving the competitiveness of existing manufacturing processes, research and innovation will contribute to growth and highly skilled jobs in the European transport industry, in the face of growing competition. At stake is the further development of the competitiveness of a major economic sector that directly represents 6,3 % of the Union gross domestic product (GDP) and employs nearly 13 million people in Europe. Specific objectives include the development of the next generation of innovative and environmentally friendly air, waterborne and land transport means, ensuring sustainable manufacturing of innovative systems and equipment and preparing the ground for future transport means, by working on novel technologies, concepts and designs, smart control systems, efficient development and production processes, innovative services and certification procedures. Europe aims at becoming the world leader in efficiency, environmental performance and safety in all modes of transport and at enhancing its leadership in global markets both for end-products as well as for subsystems.

Research and innovation will focus on the following specific activities:

4.3.1. Developing the next generation of transport means as the way to secure market share in the future

It will help enhance European leadership in aircraft, high speed trains, conventional and (sub)urban rail transport, road vehicles, electromobility, passenger cruise ships, ferries and specialised high technology ships and maritime platforms. It will also spur the competitiveness of European industries in upcoming technologies and systems and support their diversification towards new markets, including in sectors other than transport. This includes the development of innovative safe and environmentally friendly aircraft, vehicles and vessels that incorporate efficient propulsion systems, high performance and intelligent operation and control systems.

4.3.2. On-board, smart control systems

These are needed to realise higher levels of performance and system integration in transport. Appropriate interfaces for communications between aircraft, vehicles, vessels and infrastructures in all relevant combinations will be developed, taking into account impacts of electromagnetic fields, with a view to defining common operational standards. They may include delivering traffic management and user information direct to in-vehicle devices, supported by reliable real-time traffic data on road conditions and congestion from the same devices.

4.3.3. Advanced production processes

These will allow customisation, lower lifecycle cost and development time and facilitate the standardisation and certification of aircraft, vehicles and vessels as well as their components, equipment and related infrastructure. Activities in this area will develop fast and cost-efficient design and manufacturing techniques, including assembly, construction, maintenance and recycling, through digital tools and automation, and capacity to integrate complex systems. This will foster competitive supply chains able to deliver with short time to market and reduced costs without compromising operational safety and security. Transport applications of innovative materials are also a priority both for environmental and competitiveness goals as well as for increased safety and security.

4.3.4. Exploring entirely new transport concepts

This will help enhance Europe's competitive edge in the longer term perspective. Strategic multidisciplinary research and proof-of-concept activities shall address innovative transport systems solutions. This will include fully automated and other new types of aircraft, vehicles and vessels with long term potential and high environmental performance as well as new services.

4.4. *Socio-economic and behavioural research and forward-looking activities for policy making*

Actions to support policy analysis and development including gathering evidence to understand behaviour on spatial, socio-economic and wider societal aspects of transport are necessary to promote innovation and create a shared evidence base to meet the challenges raised by transport. Activities will target the development and implementation of European research and innovation policies for transport and mobility, prospective studies and technology foresight, and strengthening of the ERA.

Understanding local and regional specificities, user behaviour and perceptions, social acceptance, impact of policy measures, mobility, changing needs and patterns, evolution of future demand, business models and their implications are of paramount importance for the evolution of the European transport system. Scenario development taking into account societal trends, evidence on causalities, policy objectives and technology foresight in a 2050 perspective will be carried out. In view of better understanding the links between territorial development, social cohesion and the European transport system, robust models are needed on which sound policy decisions can be taken.

Research will focus on how to reduce social and territorial inequalities in access to mobility and on how to improve the position of vulnerable transport users. Economic issues must also be addressed, focusing on ways to internalise the externalities from transport across modes, as well as taxation and pricing models. Prospective research is needed to assess future requirements for skills and jobs, research and innovation development and uptake as well as transnational cooperation.

4.5. *Specific implementation aspects*

The activities will be organised in such a way as to allow for an integrated and mode-specific approach as appropriate. Multiannual visibility and continuity will be necessary in order to take into account the specificities of each transport mode and the holistic nature of challenges as well as relevant aspects of the strategic research and innovation agendas of European Technology Platforms.

Consideration may be given to support relevant Joint Programming Initiatives (JPIs) and the relevant public-public and public-private partnerships. Appropriate links with the actions of relevant European Innovation Partnerships will also be established. Activities shall also focus on increasing the support and promoting the involvement of SMEs.

5. CLIMATE ACTION, ENVIRONMENT, RESOURCE EFFICIENCY AND RAW MATERIALS

5.1. *Fighting and adapting to climate change*

Current CO₂ concentrations in the atmosphere are close to 40 % higher than those at the start of the industrial revolution and at the highest levels experienced in the last 2 million years. Non-CO₂ greenhouse gases also contribute to climate change and are playing an increasingly significant role. Without decisive action, climate change could cost the world at least 5 % of GDP each year, and up to 20 % under some scenarios. In contrast, with early and effective action the net costs could be limited to around 1 % of GDP per year. Meeting the 2 °C target and avoiding the worst impacts of climate change will require developed countries to cut greenhouse gas emissions by 80-95 % by 2050 compared to 1990 levels.

The aim of this activity is therefore to develop and assess innovative, cost-effective and sustainable adaptation and mitigation measures and strategies, targeting both CO₂ and non-CO₂ greenhouse gases and aerosols, and underlining both technological and non-technological green solutions, through the generation of evidence for informed, early and effective action and the networking of the required competences.

To achieve this, research and innovation will focus on the following:

5.1.1. Improving the understanding of climate change and the provision of reliable climate projections

Better understanding of the causes and evolution of climate change and more accurate climate projections are crucial for the society to protect lives, goods and infrastructures and ensure effective decision making and adequate mitigation and adaptation options. It is essential to further improve the scientific knowledge base of climate drivers, processes, mechanisms, feedbacks and thresholds associated with the functioning of terrestrial, marine and polar ecosystems and the atmosphere. Improved understanding will also allow more accurate detection of climate change and attribution to natural and anthropogenic causal factors. Improved reliability of climate projections and predictions at pertinent temporal and spatial scales will be supported via the improvement of measurements and via the development of more accurate scenarios and models, including fully coupled Earth-system models taking into account paleoclimate history.

5.1.2. Assessing impacts and vulnerabilities and developing innovative cost-effective adaptation, risk prevention and management measures

There is incomplete knowledge on the ability of society, economy and ecosystems to adapt to climate change. Effective, equitable and socially acceptable measures towards a climate-resilient environment, economy and society require the integrated analysis of current and future impacts, vulnerabilities, population exposure, risks and their management, second order effects such as migration and conflicts, costs and opportunities associated with climate change and variability, taking into account extreme events and related climate-induced hazards and their recurrence. This analysis will also be developed on the adverse impacts of climate change on biodiversity, ecosystems and ecosystem services, water resources, infrastructures and economic and natural assets. Emphasis will be placed on the most valuable natural ecosystems and built environments, as well as key societal, cultural and economic sectors across Europe. Actions will investigate the impacts and growing risks for human health stemming from climate change, climate-induced hazards and increased greenhouse gas concentrations in the atmosphere. Research will evaluate innovative, equitably distributed and cost-effective adaptation responses to climate change, including the protection and adaptation of natural resources and ecosystems, and related effects, to inform and support their development and implementation at all levels and scales. This will also include the potential impacts, costs, risks and benefits of geo-engineering options. The complex inter-linkages, conflicts and synergies of adaptation and risk-prevention policy choices with other climate and sectoral policies will be investigated, including impacts on employment and the living standards of vulnerable groups.

5.1.3. Supporting mitigation policies, including studies that focus on impact from other sectoral policies

The Union's transition to a competitive, resource-efficient and climate change resilient economy and society by 2050 requires the design of effective and long-term low-emission strategies and major advancements in our capacity to innovate. Research will assess the environmental and socio-economic risks, opportunities and impacts of climate change mitigation options. It will also assess impact from other sectoral policies. Research will support the development and validation of new climate-energy-economy models, taking into account economic instruments and relevant externalities, with the aim of testing mitigation policy options and low-carbon technology pathways at different scales and for

the key economic and societal sectors at Union and global level. Actions will facilitate technological, institutional and socio-economic innovation by improving the links between research and application and between entrepreneurs, end users, researchers, policy makers and knowledge institutions.

5.2. *Protecting the environment, sustainably managing natural resources, water, biodiversity and ecosystems*

Societies face a major challenge to establish a sustainable balance between human needs and the environment. Environmental resources, including water, air, biomass, fertile soils, biodiversity and ecosystems, and the services they provide underpin the functioning of the European and global economy and quality of life. Global business opportunities related to natural resources are expected to amount to over EUR 2 trillion by 2050 ⁽¹⁾. Despite this, ecosystems in Europe and globally are being degraded beyond nature's ability to regenerate them, and environmental resources are being over-exploited and even destroyed. For example, 1 000 km² of some of the most fertile soils and valuable ecosystems are lost every year in the Union, while a quarter of fresh water is wasted. Continuing these patterns is not an option. Research must contribute to reversing the trends that damage the environment and to ensuring that ecosystems continue to provide the resources, goods and services that are essential for well-being, economic prosperity and sustainable development.

The aim of this activity is therefore to provide knowledge and tools for the management and protection of natural resources, achieving a sustainable balance between limited resources and the present and future needs of society and the economy.

To achieve this, research and innovation will focus on the following:

5.2.1. *Furthering our understanding of biodiversity and the functioning of ecosystems, their interactions with social systems and their role in sustaining the economy and human well-being*

Human action may trigger changes in the environment that are irreversible and which alter the character of ecosystems and their biodiversity. It is vital to anticipate these risks by assessing, monitoring and forecasting the impact of human activities on the environment, including land use change, and environmental changes on human well-being. Research on marine (from coastal zones to the deep sea including the sustainability of marine resources), polar, fresh-water, terrestrial and urban ecosystems, including groundwater dependent ecosystems, will improve our understanding of the complex interactions between natural resources and social, economic, and ecological systems, including natural tipping points, and the resilience, or fragility, of human and biological systems. It will examine how biodiversity and ecosystems function and react to anthropogenic impacts, how they can be restored, and how this will affect economies and human well-being. It will also investigate solutions for addressing resource challenges in the European and international context. It will contribute to policies and practices that ensure that social and economic activities operate within the limits of the sustainability and adaptability of ecosystems and biodiversity.

5.2.2. *Developing integrated approaches to address water-related challenges and the transition to sustainable management and use of water resources and services*

Freshwater availability and quality have become global issues with far-reaching economic and social implications. With ever-growing demand for different and often conflicting uses (e.g. agriculture, industry, recreational activities, public services, ecosystems and landscape maintenance, environmental restoration and enhancement), increased resource vulnerability exacerbated by climate and global change, urbanisation, pollution and over-exploitation of freshwater resources, maintaining and improving water quality and availability, and mitigating the impact of human activities on fresh water ecosystems is becoming a critical challenge for the users of water in various sectors as well as for aquatic ecosystems.

Research and innovation will address these pressures and provide integrated strategies, tools, technologies and innovative solutions to meet current and future needs. It will aim to develop appropriate water management strategies, improve water quality, cope with imbalances between water demand and availability or supply at different levels and scale, close the water cycle, promote sustainable end-user behaviour and address water-related risks whilst sustaining the integrity, structure and functioning of the aquatic ecosystems in line with the prevailing Union policies.

⁽¹⁾ Estimates developed by PricewaterhouseCoopers for "sustainability-related global business opportunities in natural resources (including energy, forestry, food and agriculture, water and metals)" and WBCSD (2010) Vision 2050: The New Agenda for Business, World Business Council for Sustainable Development: Geneva, URL: http://www.wbcsd.org/web/projects/BZrole/Vision2050-FullReport_Final.pdf

5.2.3. Providing knowledge and tools for effective decision making and public engagement

Social, economic and governance systems still need to address both resource depletion and the damage to ecosystems. Research and innovation will underpin policy decisions needed to manage natural resources and ecosystems so as to avoid, or adapt to, disruptive climate and environmental change and to promote institutional, economic, behavioural and technological changes that ensure sustainability. Research will thus underpin the development of systems to value biodiversity and ecosystem services, including understanding the stock of natural capital and the flow of ecosystem services. Emphasis will be put on critical policy-relevant ecosystems and ecosystem services, such as fresh water, seas and oceans (including coastal areas), forests, polar regions, air quality, biodiversity, land use and soil. The resilience of societies and ecosystems to pollutants and pathogens and to catastrophic events, including natural hazards (such as seismic and volcanic, flooding and droughts) and forest fires, will be supported through improving capacities for forecasting, early warning and assessing vulnerabilities and impacts, including the multi-risk dimension. Research and innovation will thus provide support for environmental and resource efficiency policies, and options for effective evidence-based governance within safe operating limits. Innovative ways will be developed to increase policy coherence, resolve trade-offs and manage conflicting interests and to improve public awareness of research results and the participation of citizens in decision making.

5.3. Ensuring the sustainable supply of non-energy and non-agricultural raw materials

Sectors such as construction, chemicals, automotive, aerospace, machinery and equipment, which have a combined added value in excess of EUR 1 000 billion and provide employment for some 30 million people, all depend on access to raw materials. The Union is self-sufficient in construction minerals. Nonetheless, whilst the Union is one of the world's largest producers of certain industrial minerals, it remains a net importer of most of them. Furthermore, the Union is highly dependent on imports of metallic minerals and is totally import dependent for some critical raw materials.

Recent trends indicate that demand for raw materials will be driven by the development of emerging economies and by the rapid diffusion of key enabling technologies. Europe has to ensure a sustainable management and secure a sustainable supply of raw materials from inside and outside its borders for all sectors that depend on access to raw materials. Policy targets for critical raw materials are outlined in the Commission's Raw Materials Initiative⁽¹⁾.

The aim of this activity is therefore to improve the knowledge base on raw materials and develop innovative solutions for the cost-effective and environmentally friendly exploration, extraction, processing, re-use, recycling and recovery of raw materials and for their substitution by economically attractive and environmentally sustainable alternatives with a lower environmental impact.

To achieve this, research and innovation will focus on the following:

5.3.1. Improving the knowledge base on the availability of raw materials

The assessment of the long-term availability of global and Union resources, including access to urban mines (landfills and mining waste), coastal-sea and deep-sea resources (e.g. the sea-bed mining of rare earth minerals), and the associated uncertainties will be improved. This knowledge will help society reach a more efficient use, recycling and reuse of scarce or environmentally harmful raw materials. It will also develop global rules, practices and standards governing economically viable, environmentally sound and socially acceptable resource exploration, extraction and processing, including practices in land use and marine spatial planning on the basis of an ecosystems approach.

5.3.2. Promoting the sustainable supply and use of raw materials, including mineral resources, from land and sea, covering exploration, extraction, processing, re-use, recycling and recovery

Research and innovation is needed over the entire life cycle of materials, in order to secure an affordable, reliable and sustainable supply and management of raw materials essential for European industries. Developing and deploying economically viable, socially acceptable and environmentally friendly exploration, extraction and processing technologies will boost the efficient use of resources. This will include mineral resources, from land and sea, and will also exploit the potential of urban mines. New and economically viable and resource-efficient recycling and materials recovery technologies, business models and processes, including closed-loop processes and systems, will also contribute to reducing the

⁽¹⁾ COM(2008) 699 final.

Union's dependence on the supply of primary raw materials. This will include the need for longer use, high-quality recycling and recovery, and the need to drastically reduce resource wastage. A full life-cycle approach will be taken, from the supply of available raw materials to end of life, with minimum energy and resource requirements.

5.3.3. Finding alternatives for critical raw materials

In anticipation of the possible reduced global availability of certain materials, due for example to trade restrictions, sustainable substitutes and alternatives for critical raw materials, with similar functional performance, will be investigated and developed. This will reduce the Union's dependence on primary raw materials and improve the impact on the environment.

5.3.4. Improving societal awareness and skills on raw materials

The necessary move to a more self-reliant and resource-efficient economy will require cultural, behavioural, socio-economic, systemic and institutional change. In order to address the growing problem of skills shortage in the Union's raw materials sector, including the European mining industry, more effective partnerships between universities, geological surveys, industry and other stakeholders will be encouraged. It will also be essential to support the development of innovative green skills. In addition there is still limited public awareness of the importance of domestic raw materials for the European economy. To facilitate the necessary structural changes, research and innovation will aim to empower citizens, policy-makers, practitioners and institutions.

5.4. *Enabling the transition towards a green economy and society through eco-innovation*

The Union cannot prosper in a world of ever increasing resource consumption, environmental degradation and biodiversity loss. Decoupling growth from the use of natural resources requires structural changes in how such resources are used, re-used and managed, while safeguarding our environment. Eco-innovations will enable us to reduce pressure on the environment, increase resource efficiency, and put the Union on the path to a resource- and energy-efficient economy. Eco-innovation also creates major opportunities for growth and jobs, and increases European competitiveness within the global market, which is estimated to grow to a trillion Euro market after 2015⁽¹⁾. 45 % of companies have already introduced some type of eco-innovation. It has been estimated that around 4 % of eco-innovations led to more than a 40 % reduction of material use per unit of output⁽²⁾, highlighting the great future potential. However, it is not uncommon that highly promising and technically advanced eco-innovative technologies, processes, services and products do not reach the market due to pre-commercialisation challenges and do not realise their full environmental and economic potential as their scaling up and market introduction are perceived as too risky by private investors.

The aim of this activity is therefore to foster all forms of eco-innovation that enable the transition to a green economy.

To achieve this, research and innovation will focus on the following:

5.4.1. Strengthening eco-innovative technologies, processes, services and products, including exploring ways to reduce the quantities of raw materials in production and consumption, overcoming barriers in this context and boosting their market uptake

All forms of eco-innovation, both incremental and radical, combining technological, organisational, societal, behavioural, business and policy innovation, and strengthening the participation of civil society, will be supported. This will underpin a more circular economy, while reducing environmental impacts, increasing environmental resilience and taking account of rebound effects on the environment and potentially on other sectors. This will include user-driven innovation, business models, industrial symbiosis, product service systems, product design, full life cycle and cradle-to-cradle approaches as well as exploring ways to reduce the quantities of raw materials in production and consumption, and overcoming barriers in this context. The potential to move to more sustainable patterns of consumption will be addressed. The aim will be

⁽¹⁾ European Parliament, Policy Department, Economic and Scientific Policy "Eco-innovation - putting the EU on the path to a resource and energy efficient economy; Study and briefing notes", March 2009.

⁽²⁾ Eco-innovation Observatory "The Eco-Innovation Challenge - Pathways to a resource-efficient Europe - Annual Report 2010", May 2011.

to improve resource efficiency by reducing, in absolute terms, inputs, waste and the release of harmful substances (e.g. those indicated under Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽¹⁾ along the value chain and to foster re-use, recycling and resource substitution.

Emphasis will be given to facilitate the transition from research to market, involving industry and notably start-ups and innovative SMEs, civil society organisations and end-users, from the development of prototypes and demonstration of technical, social and environmental performance, up to the first application and market replication of eco-innovative techniques, products, services or practices of Union relevance. Actions will contribute to removing barriers to the development and wide application of eco-innovation, creating or enlarging markets for the solutions concerned and improving the competitiveness of Union enterprises, especially SMEs, on world markets. Networking among eco-innovators will also seek to enhance the dissemination and exploitation of knowledge and link supply with demand better.

5.4.2. Supporting innovative policies and societal changes

Structural and institutional changes are needed to enable the transition towards a green economy and society. Research and innovation will address the main barriers to societal and market change and will aim to empower consumers, business leaders and policy makers to adopt innovative and sustainable behaviour, with contributions from social sciences and humanities. Robust and transparent tools, methods and models to assess and enable the main economic, societal, cultural and institutional changes needed to achieve a paradigm shift towards a green economy and society will be developed. Research will explore how to promote sustainable lifestyles and consumption patterns, encompassing socio-economic research, behavioural science, user engagement and public acceptance of innovation, as well as activities to improve communication and public awareness. Full use will be made of demonstration actions.

5.4.3. Measuring and assessing progress towards a green economy

It is necessary to develop robust indicators at all appropriate spatial scales that are complementary to GDP, methods and systems to support and assess the transition towards a green economy and the effectiveness of relevant policy options. Driven by a life-cycle approach, research and innovation will improve the quality and availability of data, measurement methods and systems relevant to resource efficiency and eco-innovation and facilitate the development of innovative offset schemes. Socio-economic research will provide a better understanding of the root causes of producer and consumer behaviour and thus contribute to the design of more effective policy instruments to facilitate the transition to a resource-efficient and climate change resilient economy. Moreover, technology assessment methodologies and integrated modelling will be developed to support resource efficiency and eco-innovation policies at all levels, while increasing policy coherence and resolving trade-offs. The results will enable the monitoring, assessment and reduction in material and energy flows involved in production and consumption, and will enable policy-makers and businesses to integrate environmental costs and externalities into their actions and decisions.

5.4.4. Fostering resource efficiency through digital systems

Innovations in information and communication technologies can constitute a key tool to support resource efficiency. To achieve this objective, modern and innovative ICT will contribute to significant efficiency gains in productivity, notably through automated processes, real time monitoring and decision support systems. The use of ICT will aim to accelerate a progressive dematerialisation of the economy, by increasing the shift towards digital services, and to facilitate changes of consumption behaviours and business models through the use of the ICT of the future.

5.5. Developing comprehensive and sustained global environmental observation and information systems

Comprehensive environmental observation and information systems are essential to ensure the delivery of the long-term data and information required to address this societal challenge. These systems will be used to monitor, assess and predict the condition, status and trends of the climate, natural resources including raw materials, terrestrial and marine (from coastal zones to deep sea) ecosystems and ecosystem services, as well as to evaluate low-carbon and climate mitigation and adaptation policies and options across all sectors of the economy. Information and knowledge from these systems will be used to stimulate the smart use of strategic resources, to support the development of evidence-based policies, to foster new environmental and climate services, and to develop new opportunities in global markets.

⁽¹⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

Capabilities, technologies and data infrastructures for Earth observation and monitoring must build on advances in ICT, space technologies and enabled networks, remotely sensed observations, novel in situ sensors, mobile services, communication networks, participatory web-service tools and improved computing and modelling infrastructure, with the aim of continuously providing timely and accurate information, forecasts and projections. Free, open and unrestricted access to interoperable data and information will be encouraged, as well as the effective and, if required, secure storage, management and dissemination of research results. Activities shall help define future operational activities of the Copernicus programme and enhance the use of Copernicus data for research activities.

5.6. Cultural heritage

Cultural heritage assets are unique and irreplaceable in their tangible form as well as in their intangible value, cultural significance and meaning. They are a major driver of societal cohesion, identity and well-being, and they contribute significantly to sustainable growth and job creation. However, Europe's cultural heritage is subject to deterioration and damage, further exacerbated by increasing exposure to human activities (e.g. tourism) and extreme weather events resulting from climate change as well as due to other natural hazards and disasters.

The aim of this activity is to provide knowledge and innovative solutions, through adaptation and mitigation strategies, methodologies, technologies, products and services for the preservation and management of tangible cultural heritage in Europe at risk from climate change.

To achieve this, multidisciplinary research and innovation will focus on the following:

5.6.1. Identifying resilience levels via observations, monitoring and modelling

New and improved damage assessment, monitoring and modelling techniques will be developed to improve the scientific knowledge base of the impact on cultural heritage of climate change and other environmental and human risk factors. The knowledge and understanding generated with the help of scenarios, models and tools, including analysis of the perception of value, will help provide a sound scientific basis for the development of resilience strategies, policies and standards, within a coherent framework for risk assessment and management of cultural heritage assets.

5.6.2. Providing for a better understanding on how communities perceive and respond to climate change and seismic and volcanic hazards

Research and innovation will, through integrated approaches, develop resource-efficient solutions for prevention, adaptation and mitigation, involving innovative methodologies, technologies, products and services for the preservation of cultural heritage assets, cultural landscapes and historic habitats.

5.7. Specific implementation aspects

Activities will enhance the Union's participation in and financial contribution to multilateral processes and initiatives, such as the Intergovernmental Panel on Climate Change (IPCC), the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES), and the Group on Earth Observations (GEO). Cooperation with other major public and private research funders as well as with major research networks will improve global and European research efficiency and contribute to global research governance.

Scientific and technological cooperation will contribute to the United Nations Framework Convention on Climate Change (UNFCCC) global technology mechanism and facilitate technology development, innovation and transfer in support of climate adaptation and the mitigation of greenhouse gases.

Building on the outcomes of the UN Rio+20 Conference, a mechanism will be explored to systematically collect, collate and analyse scientific and technological knowledge on key sustainable development and green economy issues, which will include a framework for measuring progress. This will complement existing scientific panels and bodies and seek synergies with them.

Research actions under this societal challenge will contribute to Copernicus operational services by providing a developmental knowledge base for Copernicus.

Consideration may be given to support relevant Joint Programming Initiatives (JPIs) and relevant public-public and public-private partnerships.

Appropriate links with the actions of relevant European Innovation Partnerships and the relevant aspects of the research and innovation agendas of European Technology Platforms will also be established.

Specific measures will ensure that results from Union research and innovation in the fields of climate, resource efficiency and raw materials are used downstream by other Union programmes, such as the LIFE programme, ESI Funds, and external cooperation programmes.

Activities will also, *inter alia*, build upon and enhance those undertaken in the Eco-Innovation Programme.

Actions will also provide the continuous analysis of scientific and technological progress in the Union and its major partner countries and regions, an early investigation of market opportunities for new environmental technologies and practices, and foresight for research and innovation policy.

6. EUROPE IN A CHANGING WORLD - INCLUSIVE, INNOVATIVE AND REFLECTIVE SOCIETIES

This section includes research and innovation activities contributing to make societies more inclusive, innovative and reflective, and also specific measures supporting particular cross-cutting issues mentioned in this societal challenge ⁽¹⁾.

6.1. *Inclusive societies*

Current trends at play in European societies bring with them opportunities for a more united Europe but also risks and challenges. These opportunities, risks and challenges need to be understood and anticipated in order for Europe to evolve with adequate solidarity and cooperation at social, economic, political, educational and cultural levels, taking into account an increasingly interconnected and interdependent world.

In this context, the objective is to understand, analyse and develop social, economic and political inclusion, as well as inclusive labour markets, combat poverty and marginalisation, enhance human rights, digital inclusiveness, equality, solidarity and inter-cultural dynamics by supporting cutting-edge science, interdisciplinary research, development of indicators, technological advances, organisational innovations, development of regional innovation clusters and new forms of collaboration and co-creation. Research and other activities shall support the implementation of the Europe 2020 strategy as well as other relevant Union policies. Social sciences and humanities research has a leading role to play in this context. Specifying, monitoring, assessing and addressing the objectives of European strategies and policies will require focused research that allows policy makers to analyse and assess the impact and effectiveness of envisaged measures, in particular in favour of social inclusion. To this end, full societal inclusion and participation must encompass all areas of life and all ages.

The following specific objectives will be pursued to understand and foster or implement:

6.1.1. The mechanisms to promote smart, sustainable and inclusive growth

Europe has developed a specific and rather unique combination of economic progress, social policies aimed at a high level of social cohesion, humanistic shared cultural values embracing democracy and the rule of law, human rights, respect and preservation of diversity, as well as the promotion of education and science, arts and humanities as fundamental drivers of social and economic progress and well-being. The constant quest for economic growth carries a number of important human, social, environmental and economic costs. A smart, sustainable and inclusive growth in Europe implies substantial changes in the way growth and societal well-being are defined, measured (including through the measurement of progress beyond the commonly used GDP indicator), generated and sustained over time.

⁽¹⁾ Without prejudice to the budget allocated to this societal challenge.

Research will analyse the development of citizen participation, sustainable lifestyles, cultural understanding and socio-economic behaviours and values and how they relate to paradigms, policies and to the functioning of institutions, communities, markets, firms, governance and belief systems in Europe and their relations with other regions and economies. It will develop tools for a better assessment of the contextual and mutual impacts of such evolutions, compare public policies against the variety of challenges across Europe, and analyse policy options and decision making mechanisms in areas such as employment, taxation, inequalities, poverty, social inclusion, education and skills, community development, competitiveness and the internal market with a view to understanding the new conditions and opportunities for greater European integration and the role of its social, cultural, scientific and economic components and synergies as sources of comparative Union advantages at world level.

Demographic change due to ageing societies and migration movements will be analysed in terms of its implications for growth, the labour market and well-being. In this context, to be able to tackle the challenge of future growth, it is important to take into account the different components of knowledge, focusing research on learning, education and training issues, or on the role and place of young people in the society. Research will also develop better tools for assessing sustainability impacts of different economic policies. It will also analyse how national economies evolve and which forms of governance at European and international level could help prevent macro-economic imbalances, monetary difficulties, fiscal competition, unemployment and employment problems and other forms of societal, economic and financial disorders. It will take into account the growing interdependencies between Union and global economies, markets and financial systems and resulting challenges for institutional development and public administration. Against the background of the European public debt crisis, emphasis will also be put on research to define the framework conditions for stable European financial and economic systems.

6.1.2. Trusted organisations, practices, services and policies that are necessary to build resilient, inclusive, participatory, open and creative societies in Europe, in particular taking into account migration, integration and demographic change

Understanding social, cultural and political transformations in Europe requires the analysis of changing democratic practices and expectations as well as of the historical evolution of identities, diversity, territories, religions, cultures, languages and values. This includes a good understanding of the history of European integration. Research will seek to identify ways to adapt and improve the European welfare systems, public services and the broader social security dimension of policies in order to achieve cohesion and gender equality, to foster participatory, open and creative societies and to promote social and economic equality and intergenerational solidarity. Research will analyse how societies and politics become more European in a broad sense through evolutions of identities, cultures and values, the circulation of knowledge, ideas and beliefs and combinations of principles and practices of reciprocity, commonality and equality, paying particular attention to migration, integration and demographic change. It will analyse how vulnerable populations (e.g. Roma) can participate fully in education, society and democracy, notably through the acquisition of various skills and the protection of human rights. The analysis of how political systems evolve and also respond to the above-mentioned social evolutions will thus be central.

Research will also address the evolution of key systems that provide underlying forms of human and social bonds, such as family, work, education and employment, and help to combat social inequalities, exclusion and poverty. Social cohesion and fair and reliable justice, education, democracy, tolerance and diversity are factors that need to be carefully considered with a view to identifying and better exploiting European comparative advantages at world level and to providing improved evidence-based support to policies. Research will take into account the importance of mobility and migration, including intra-European flows, and demography in the future development of European policies.

In addition, understanding the strains and opportunities arising from the uptake of ICT, both at individual and collective levels, is important in order to open new paths of inclusive innovation. Given the increasing socio-economic importance of digital inclusion, research and innovation actions will promote inclusive ICT solutions and the effective acquisition of digital skills leading to the empowerment of citizens and a competitive workforce. Emphasis will be given to new technological advances that will enable a radical improvement in personalisation, user-friendliness and accessibility through a better understanding of citizen, consumer and user behaviours and values, including persons with disabilities. This will require an "inclusion by design" research and innovation approach.

6.1.3. Europe's role as a global actor, notably regarding human rights and global justice

Europe's distinct historical, political, social and cultural system is increasingly confronted with the impact of global changes. In order to further develop its external action in its neighbourhood and beyond and its role as a global actor, Europe has to improve its capacities for defining, prioritising, explaining, assessing and promoting its policy

objectives in interaction with other world regions and societies to further cooperation or prevent or solve conflicts. In this regard, it also has to improve its capacities for anticipating and responding to the evolution and impacts of globalisation. This requires a greater understanding of and learning from the history, cultures and political-economic systems of other world regions, as well as of the role and influence of transnational actors. Finally, Europe also has to contribute effectively to global governance and global justice, in key domains like trade, development, work, economic cooperation, environment, education, gender equality and human rights, defence and security. This implies the potential to build new capacities whether in terms of tools, services, systems and instruments of analysis or in terms of diplomacy in formal and informal international arena with governmental and non-governmental actors.

6.1.4. The promotion of sustainable and inclusive environments through innovative spatial and urban planning and design

80 % of Union citizens live today in and around cities, and inadequate urban planning and design can thus have tremendous consequences on their lives. Understanding how they function for all citizens, as well as understanding their design, liveability and their attractiveness to, inter alia, investment and skills, is critical to Europe's success in creating growth, jobs and a sustainable future.

European research and innovation should provide tools and methods for a more sustainable, open, innovative and inclusive urban and peri-urban planning and design; a better understanding of the dynamics of urban societies and social changes and of the nexus of energy, environment, transport and land-use, including the interplay with surrounding rural areas; an improved understanding of design and use of public space within cities, also in the context of migration, to improve social inclusion and development and reduce urban risks and crime; new ways to reduce pressures on natural resources and stimulate sustainable economic growth while improving the quality of life of European urban citizens; and a forward-looking vision on the socio-ecological transition towards a new model of urban development reinforcing Union cities as hubs of innovation and centres of job creation and social cohesion.

6.2. Innovative societies

The Union share of global knowledge production remains considerable, yet its socio-economic impacts need to be maximised. Efforts will be made to increase the efficiency of research and innovation policies and their transnational policy synergies and coherence. Innovation will be addressed in a wide sense, including large-scale policy, social-, user- and market-driven innovation. The experience and innovative power of creative and cultural Industries will be taken into account. These activities will support the achievement and functioning of the ERA and in particular the Europe 2020 flagship initiatives 'Innovation Union' and the 'Digital Agenda for Europe'.

The following specific objectives will be pursued:

6.2.1. Strengthening the evidence base and support for the Innovation Union and ERA

In order to assess and prioritise investments and strengthen the Innovation Union and the ERA, the analysis of research, education and innovation policies, systems and actors in Europe and third countries as well as the development of indicators, data and information infrastructures will be supported. Forward-looking activities and pilot initiatives, economic and gender analysis, policy monitoring, mutual learning, coordination tools and activities and the development of methodologies for impact assessment and evaluations will also be needed, exploiting direct feedback from stakeholders, enterprises, public authorities, civil society organisations and citizens. This analysis should be conducted in coherence with studies on higher education systems in Europe and third countries within the Erasmus+ programme.

To ensure a single market for research and innovation, measures to incentivise ERA compatible behaviour will be implemented. Activities underpinning policies related to the quality of research training, mobility and career development of researchers will be supported, including initiatives to provide for mobility services, open recruitment, women's participation in the sciences, researchers' rights and links with global researcher communities. These activities will be implemented seeking synergies and close coordination with the Marie Skłodowska-Curie Actions under the priority 'Excellent science'. Institutions presenting innovative concepts for the rapid implementation of ERA principles, including the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, the Commission Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research institutions⁽¹⁾, will be supported.

⁽¹⁾ COM(2008) 1329 final, 10.4.2008.

As regards coordination of policies, a facility for policy advice will be set up to make expert policy advice available to national authorities when defining their National Reform Programmes and research and innovation strategies.

To implement the Innovation Union flagship initiative, there is also a need to support market-driven innovation, open innovation, public sector and social innovation in view of enhancing the innovation capacity of firms and fostering European competitiveness. This will require improving the overall framework conditions for innovation as well as tackling the specific barriers preventing the growth of innovative firms. Powerful innovation support mechanisms (such as improved cluster management, public-private partnerships and network cooperation), highly specialised innovation support services (on e.g. IP management/exploitation, networking of IPR owners and users, innovation management, entrepreneurship skills, and networks of procurers) and reviews of public policies in relation to innovation will be supported. Issues specific to SMEs will be supported under the specific objective 'Innovation in SMEs'.

6.2.2. Exploring new forms of innovation, with special emphasis on social innovation and creativity, and understanding how all forms of innovation are developed, succeed or fail

Social innovation generates new goods, services, processes and models that meet societal needs and create new social relationships. As means of innovation are constantly changing, further research is needed into the development of all forms of innovation and the way innovation meets the needs of society. It is important to understand how social innovation and creativity may lead to change in existing structures, practices and policies and how they can be encouraged and scaled-up. It is important to assess the impact of on-line platforms on networking citizens. Support will also be given to the use of design in companies, networking and experimentation of the use of ICT for improving learning processes, as well as to networks of social innovators and social entrepreneurs. Research will also focus on the processes of innovation and how they develop, succeed or fail (including risk taking and the role of different regulatory environments).

It will be essential to promote innovation in order to foster efficient, open and citizen-centric public services (e.g. eGovernment). This will require multidisciplinary research on new technologies and large-scale innovation related in particular to digital privacy, interoperability, personalised electronic identification, open data, dynamic user interfaces, lifelong learning and e-learning platforms, distributed learning systems, citizen-centric public service configuration and integration and innovation driven by users, including in social sciences and the humanities. Such actions will also address social network dynamics and crowd-sourcing and smart-sourcing for co-production of solutions addressing social problems, based, for example, on open data sets. They will help to manage complex decision making, in particular the handling and analysis of huge quantities of data for collaborative policy modelling, simulation of decision making, visualisation techniques, process modelling and participatory systems as well as to analyse changing relationships between citizens and the public sector.

Specific measures shall be developed to involve the public sector as an agent for innovation and change, at national and Union level, in particular through policy support and cross-border innovation measures at the widest geographical level enabling the smart use of ICT in and by public administrations for seamless delivery of public services for citizens and businesses.

6.2.3. Making use of the innovative, creative and productive potential of all generations

Activities will contribute to exploring Europe's opportunities to innovate in terms of new products and technologies, improved services and new business and social models adapted to the changing demographic structure of the society. Activities will enhance taking advantage of the potential of all generations by fostering the development of smart policies to make active ageing a reality in an evolving intergenerational context and by supporting the integration of the generations of young Europeans in all domains of social, political, cultural and economic life, taking into account, amongst others, perception of opportunities for innovation in the context of high unemployment in many Union regions.

6.2.4. Promoting coherent and effective cooperation with third countries

Horizontal activities will ensure the strategic development of international cooperation across Horizon 2020 and address cross-cutting policy objectives. Activities to support bilateral, multilateral and bi-regional policy dialogues in research and innovation with third countries, regions, international fora and organisations will facilitate policy exchange, mutual learning and priority setting, promote reciprocal access to programmes and monitor the impact of cooperation. Networking and twinning activities will facilitate optimal partnering between research and innovation actors on both sides and improve competencies and cooperation capacity in less advanced third countries. Activities will promote

coordination of Union and national cooperation policies and programmes, as well as joint actions of Member States and associated countries with third countries in order to enhance their overall impact. Finally, the European research and innovation 'presence' in third countries will be consolidated and strengthened, notably by exploring the creation of European virtual 'science and innovation houses', the provision of services to European organisations extending their activities into third countries, and the opening of research centres, established jointly with third countries, to organisations or researchers from other Member States and associated countries.

6.3. *Reflective societies - Cultural heritage and European identity*

The aim is to contribute to an understanding of Europe's intellectual basis, its history and the many European and non-European influences, as an inspiration for our lives today. Europe is characterised by a variety of different peoples (including minorities and indigenous people), traditions and regional and national identities as well as by different levels of economic and societal development. Migration and mobility, media, industry and transport contribute to the diversity of views and lifestyles. This diversity and its opportunities should be recognised and considered.

European collections in libraries, including digital ones, archives, museums, galleries and other public institutions have a wealth of rich, untapped documentation and objects for study. These archival resources, together with intangible heritage, represent the history of individual Member States but also the collective heritage of a Union that has emerged through time. Such materials should be made accessible, also through new technologies, to researchers and citizens to enable a look to the future through the archive of the past. Accessibility and preservation of cultural heritage in these forms is needed for the vitality of the living engagements within and across European cultures now and contributes to sustainable economic growth.

The focus of activities shall be the following:

6.3.1. Studying European heritage, memory, identity, integration and cultural interaction and translation, including its representations in cultural and scientific collections, archives and museums, to better inform and understand the present by richer interpretations of the past

The activities will contribute to a critical analysis of how a European tangible and non-tangible heritage has developed over time, including language, memories, practices, institutions and identities. They will include studies of the interpretations and practices of cultural interactions, integration and exclusion.

An intensified European integration process has underlined that a wider European identity sphere exists – one which complements other types of identities in Europe. A broad spectrum of evidence and testimonies of European identity spheres can be found in European and non-European scientific collections, archives, museums, libraries and cultural heritage sites. They offer materials and documents which enable greater understanding of identity building processes that allow reflections about social, cultural or even economic processes that contribute to past, actual and future forms of European identity. The objective is to develop innovations and to use and analyse objects and/or documentation in cultural and scientific collections, archives and museums to improve our understanding of how European identity can be traced, constructed or debated.

The issues of multilingualism, translation and circulation of ideas across Europe and from and to Europe and how they form part of a common European intellectual heritage will be explored.

6.3.2. Researching into European countries' and regions' history, literature, art, philosophy and religions and how these have informed contemporary European diversity

Cultural diversity is an important facet constituting Europe's singularity and providing a source of strength, dynamism and creativity. The activities will address the contemporary European diversity and how this diversity is shaped by history while also helping to analyse how such diversity is conducive to new intercultural developments, or even tensions and conflicts. The role of arts, media, landscapes, literature, languages, philosophy and religions, in relation to this diversity, will be central as they offer various interpretations of the social, political and cultural realities and influence the visions and practices of individuals and social actors.

6.3.3. Researching Europe's role in the world, the mutual influence and ties between the world regions, and a view from outside on European cultures

The activities will address the complexity of the socio-economic and cultural links between Europe and other world regions and assess the potential for improved intercultural exchanges and dialogues taking into account broader social, political and economic developments. They will help to analyse the development of various views in Europe on other world regions and vice versa.

6.4. *Specific implementation aspects*

In order to promote an optimal combination of approaches, cooperation between this societal challenge and the priority "Industrial Leadership" shall be established in the form of cross-cutting actions targeting the field of interaction between humans and technology. Technological innovation based on ICT will play an important role in enhancing the productivity and engaging the creativity of citizens from all generations in an innovative society.

Implementation under this societal challenge will also enjoy the support of administration and coordination of international networks for excellent researchers and innovators such as COST and EURAXESS, and therefore also contribute to the ERA.

Consideration may be given to support relevant Joint Programming Initiatives (JPIs) and relevant public-public and public-private partnerships.

Appropriate links with the actions of relevant European Innovation Partnerships and the relevant aspects of the research and innovation agendas of European Technology Platforms will also be established.

Research and innovation actions under this societal challenge will contribute to implementing the Union's international research and innovation cooperation activities, by engaging more strategically in science, technology and innovation cooperation with its main third country partners. In this regard, the Strategic Forum for International Scientific and Technological Cooperation (SFIC) will continue to give strategic advice to the Council and the Commission on the international dimension of the ERA.

7. SECURE SOCIETIES - PROTECTING FREEDOM AND SECURITY OF EUROPE AND ITS CITIZENS

The Union, its citizens and its international partners are confronted with a range of security threats and challenges like crime, terrorism and mass emergencies due to man-made or natural disasters. These can span across borders and aim at physical targets or the cyberspace. Attacks against critical infrastructures, networks and Internet sites of public authorities and private entities not only undermine the citizen's trust but may seriously affect essential sectors such as energy, transport, health, finance or telecommunications.

In order to anticipate, prevent and manage these threats, it is necessary to develop and apply innovative technologies, solutions, foresight tools and knowledge, stimulate cooperation between providers and users, find civil security solutions, improve the competitiveness of European security, industry and services, including ICT, and prevent and combat the abuse of privacy and breaches of human rights in Internet and elsewhere, while ensuring European citizens' individual rights and freedom.

The coordination and improvement of the security research and innovation area will thus be an essential element and will help to map present research efforts, including foresight, and improve relevant legal conditions and procedures for coordination, including pre-normative activities.

Activities within this societal challenge shall have an exclusive focus on civil applications and will follow a mission-oriented approach, promote efficient cooperation of end-users, industry and researchers, and integrate the relevant societal dimensions whilst complying with ethical principles. They will support the Union's policies for internal and external security, including the Common Foreign and Security Policy and its Common Security and Defence Policy, and improve cyber security, trust and privacy in the Digital Single Market. The activities will include a focus on the research and development of the next generation of innovative solutions, by working on novel concepts and designs, and interoperable standards. This will be done by developing innovative technologies and solutions that address security gaps and lead to a reduction in the risk from security threats.

The following specific objectives will be pursued:

7.1. Fighting crime, illegal trafficking and terrorism, including understanding and tackling terrorist ideas and beliefs

The ambition is both to avoid an incident and to mitigate its potential consequences. This requires new technologies and capabilities for fighting and preventing crime (including cyber crime), illegal trafficking and terrorism (including cyber terrorism), including understanding causes and impacts of radicalisation and violent extremism, and tackling terrorist ideas and beliefs to also avoid aviation-related threats.

7.2. Protecting and improving the resilience of critical infrastructures, supply chains and transport modes

New technologies, processes, methods and dedicated capabilities will help to protect critical infrastructures (including in urban areas), systems and services which are essential for the proper functioning of society and economy (including communications, transport, finance, health, food, water, energy, logistic and supply chain, and environment). This will include analysing and securing public and private critical networked infrastructures and services against any type of threats, including aviation-related threats. This will also include protection of maritime transport routes.

7.3. Strengthening security through border management

Technologies and capabilities are also required to enhance systems, equipments, tools, processes, and methods for rapid identification to improve land, marine and coastal border security and management, including both control and surveillance issues, while exploiting the full potential of the European Border Surveillance System (EUROSUR). These will be developed and tested considering their effectiveness, compliance with legal and ethical principles, proportionality, social acceptability and the respect of fundamental rights. Research will also support the improvement of the integrated European border management, including through increased cooperation with candidate, potential candidate and European Neighbourhood Policy countries.

7.4. Improving cyber security

Cyber security is a prerequisite for people, business and public services in order to benefit from the opportunities offered by the Internet or any other additional data networks and communication infrastructures. It requires providing an improved security for systems, networks, access devices, software and services, including cloud computing, while taking into account the interoperability of multiple technologies. Research and innovation will be supported to help prevent, detect and manage real-time cyber-attacks across multiple domains and jurisdictions, and to protect critical ICT infrastructures. The digital society is in full development with constantly changing uses and abuses of the Internet, new ways of social interaction, new mobile and location-based services and the emergence of the Internet of Things (IoT). This requires a new type of research which should be triggered by the emerging applications, usage and societal trends. Nimble research initiatives will be undertaken, including pro-active R&D, to react quickly to new contemporary developments in trust and security. Particular attention should be given to the protection of children, as they are highly vulnerable to the emerging forms of cyber crime and abuse.

Work here should be conducted in close co-ordination with the ICT strand of the priority "Industrial Leadership".

7.5. Increasing Europe's resilience to crises and disasters

This requires the development of dedicated technologies and capabilities to support different types of emergency management operations in crises and disaster situations (such as civil protection, fire fighting, environmental contamination, marine pollution, civil defence, development of medical information infrastructures, rescue tasks, and disaster recovery processes) as well as law enforcement. Research will cover the whole crisis management chain and societal resilience, and support the establishment of a European emergency response capacity.

7.6. Ensuring privacy and freedom, including in the Internet, and enhancing the societal legal and ethical understanding of all areas of security, risk and management

Safeguarding the human right of privacy, including in the digital society, will require the development of privacy-by-design frameworks and technologies to underpin new products and services. Technologies will be developed allowing users to control their personal data and its use by third parties, as well as tools to detect and block illegal content and data breaches and to protect human rights on-line, preventing that the behaviour of individuals or groups is limited by unlawful searching or profiling.

Any new security solution and technology needs to be acceptable to the society, comply with Union and international law, and be effective and proportionate in identifying and addressing the security threat. It is therefore essential to understand the socioeconomic, cultural, and anthropological dimensions of security, the causes of insecurity, the role of media and communication and the citizen's perceptions better. Ethical and legal issues and protection of human values and fundamental rights will be addressed, as well as risk and management issues.

7.7. Enhancing standardisation and interoperability of systems, including for emergency purposes

Pre-normative and standardisation activities will be supported across all mission areas. Attention will be paid to standardisation gaps and on the next generation of tools and technologies. Activities across all mission areas will also address the integration and interoperability of systems and services, including aspects such as communication, distributed architectures and human factors, including for emergency purposes.

7.8. Supporting the Union's external security policies, including through conflict prevention and peace-building

New technologies, capabilities and solutions are required to support the Union's external security policies in civilian tasks, ranging from civil protection to humanitarian relief, border management or peace-keeping and post-crisis stabilisation, including conflict prevention, peace-building and mediation. This will require research on conflict resolution and restoration of peace and justice, on early identification of factors leading to conflict and on the impact of restorative justice processes.

This also requires promoting interoperability between civilian and military capabilities in civilian tasks ranging from civil protection to humanitarian relief, border management or peace-keeping. This will include technological development in the sensitive area of dual-use technologies to enhance interoperability between civil protection and military forces and amongst civil protection forces worldwide, as well as reliability, organisational, legal and ethical aspects, trade issues, protection of confidentiality and integrity of information and traceability of all transactions and processing.

7.9. Specific implementation aspects

Whereas research and innovation activities will have an exclusive focus on civil applications, coordination with the activities of the European Defence Agency (EDA) will be actively pursued in order to strengthen cooperation with EDA, notably through the already established European Framework Cooperation (EFC), recognising that there are areas of dual-use technology. Coordination mechanisms with relevant Union agencies, such as the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), European Maritime Safety Agency (EMSA), European Union Agency for Network and Information Security (ENISA) and European Police Office (Europol), will also be further strengthened in order to improve the coordination of Union programmes and policies in the field of both internal and external security, and of other Union initiatives.

Taking into account the particular nature of security, specific arrangements will be put in place with regards to programming and governance, including arrangements with the Committee referred to in Article 10. Classified or otherwise sensitive information related to security will be protected, and particular requirements and criteria for international cooperation may be specified in work programmes. This will also be reflected in the programming and governance arrangements for the specific objective "Secure societies - Protecting freedom and security of Europe and its citizens" (including the comitology aspects).

PART IV

SPREADING EXCELLENCE AND WIDENING PARTICIPATION

The aim is to fully exploit the potential of Europe's talent pool and ensure that the benefits of an innovation-led economy are both maximised and widely distributed across the Union in accordance with the principle of excellence.

There are significant disparities across Europe in research and innovation performance which need to be addressed with specific measures. These measures will aim at unlocking excellence and innovation and will be distinct from, and where appropriate complementary and synergistic with, policies and actions of the ESI Funds. They include:

- (a) Teaming of excellent research institutions and low performing RDI regions: Teaming aims at the creation of new (or significant upgrade of existing) centres of excellence in low performing RDI Member States and regions. It will focus on the preparatory phase for setting up or upgrading and modernising such an institution, facilitated by a teaming process with a leading counterpart in Europe, including supporting the development of a business plan. A commitment of the recipient region or Member State (e.g. support via ESI Funds) is expected. Subject to the quality of the business plan, the Commission may provide further seed financial support for the first steps of implementation of the centre.

Building links with innovative clusters and recognising excellence in low performing RDI Member States and regions, including through peer reviews and awarding labels of excellence to those institutions that meet international standards, will be considered;

- (b) Twinning of research institutions: Twinning aims at significantly strengthening a defined field of research in an emerging institution through links with at least two internationally-leading institutions in a defined field. A comprehensive set of measures underpinning this linkage would be supported (e.g. staff exchanges, expert visits, short-term on-site or virtual trainings, and workshops; conference attendance; organisation of joint summer school type activities; dissemination and outreach activities);
- (c) 'ERA Chairs': Establishing 'ERA Chairs' aims at attracting outstanding academics to institutions with a clear potential for research excellence, in order to help these institutions fully unlock this potential and hereby create a level playing field for research and innovation in the ERA. This will include institutional support for creating a competitive research environment and the framework conditions necessary for attracting, retaining and developing top research talent within these institutions. Possible synergies with ERC activities should be explored;
- (d) Policy Support Facility: This will aim at improving the design, implementation and evaluation of national/regional research and innovation policies. It will offer expert advice to public authorities at national or regional level on a voluntary basis, covering the needs to access the relevant body of knowledge, to benefit from the insight of international experts, to use state-of-the-art methodologies and tools, and to receive tailor-made advice;
- (e) Supporting access to international networks for excellent researchers and innovators who lack sufficient involvement in European and international networks. This will include support provided through COST;
- (f) Strengthening the administrative and operational capacity of transnational networks of National Contact Points (NCPs), including through training, financial and technical support, while improving the framework for the operation of NCPs and the flow of information between them and the Horizon 2020 implementation bodies, so that NCPs can provide better support to potential participants.

PART V

SCIENCE WITH AND FOR SOCIETY

The aim is to build effective cooperation between science and society, to recruit new talent for science and to pair scientific excellence with social awareness and responsibility.

The strength of the European science and technology system depends on its capacity to harness talent and ideas from wherever they exist. This can only be achieved if a fruitful and rich dialogue and active cooperation between science and society is developed to ensure a more responsible science and to enable the development of policies more relevant to citizens. Rapid advances in contemporary scientific research and innovation have led to a rise of important ethical, legal and social issues that affect the relationship between science and society.

Improving the cooperation between science and society to enable a widening of the social and political support to science and technology in all Member States is an increasingly crucial issue which the current economic crisis has greatly exacerbated. Public investment in science requires a vast social and political constituency sharing the values of science, educated and engaged in its processes and able to recognise its contributions to knowledge, society and economic progress.

The focus of activities shall be to:

- (a) make scientific and technological careers attractive to young students, and foster sustainable interaction between schools, research institutions, industry and civil society organisations;
- (b) promote gender equality, in particular by supporting structural changes in the organisation of research institutions and in the content and design of research activities;
- (c) integrate society in science and innovation issues, policies and activities in order to integrate citizens' interests and values and to increase the quality, relevance, social acceptability and sustainability of research and innovation outcomes in various fields of activity from social innovation to areas such as biotechnology and nanotechnology;

- (d) encourage citizens to engage in science through formal and informal science education, and promote the diffusion of science-based activities, namely in science centres and through other appropriate channels;
- (e) develop the accessibility and the use of the results of publicly-funded research;
- (f) develop the governance for the advancement of responsible research and innovation by all stakeholders (researchers, public authorities, industry and civil society organisations), which is sensitive to society needs and demands, and promote an ethics framework for research and innovation;
- (g) take due and proportional precautions in research and innovation activities by anticipating and assessing potential environmental, health and safety impacts;
- (h) improve knowledge on science communication in order to improve the quality and effectiveness of interactions between scientists, general media and the public.

PART VI

NON-NUCLEAR DIRECT ACTIONS OF THE JOINT RESEARCH CENTRE (JRC)

The JRC shall contribute to the general objective and priorities of Horizon 2020 by providing scientific and technical support to Union policies, in collaboration with relevant national and regional research stakeholders, where appropriate. The JRC activities will be conducted taking into account relevant initiatives at the level of regions, Member States or the Union, within the perspective of shaping the ERA.

1. EXCELLENT SCIENCE

The JRC will carry out research to enhance the scientific evidence base for policy making and to examine emerging fields of science and technology, including through an exploratory research programme.

2. INDUSTRIAL LEADERSHIP

The JRC will contribute to innovation and competitiveness through:

- (a) continuing to contribute to the strategic orientation and science agenda of relevant instruments of indirect research, such as European Innovation Partnerships as well as public-private partnerships and public-public partnerships;
- (b) support to knowledge and technology transfer through definition of appropriate intellectual property rights frameworks for different research and innovation instruments, and promotion of cooperation in knowledge and technology transfer among large public research organisations;
- (c) contributions to facilitating the use, standardisation and validation of space technologies and data, in particular to tackle the societal challenges.

3. SOCIETAL CHALLENGES

3.1. *Health, demographic change and well-being*

The JRC will contribute to the harmonisation of methods, standards, and practices in support of Union legislation targeting health and consumer protection through:

- (a) assessment of risks and opportunities of new technologies and chemicals, including nanomaterials, in food, feed and consumer products; development and validation of harmonised measurement, identification and quantification methods, integrated testing strategies and state-of-the-art tools for toxicological hazard assessment, including alternative methods to animal testing; assessment of health effects of environmental pollution;
- (b) development and quality assurance of health testing and screening practices, including genetic testing and cancer screening.

3.2. Food security, sustainable agriculture and forestry, marine, maritime and inland water research, and the bioeconomy

The JRC will support the development, implementation and monitoring of European agriculture and fisheries policies, including food security and development of the bioeconomy through:

- (a) establishment of a global system and tools for crop forecasting and monitoring of crop productivity; support to improve short- to mid-term outlooks of agricultural commodities, including the predicted effects of climate change;
- (b) contribution to biotechnological innovation and improved resource efficiency to produce 'more with less' through techno-economic analyses and modelling;
- (c) scenario modelling for decision making in agricultural policies and analyses of policy impact at macro/regional/micro levels; analysis of the impact of the "CAP towards 2020" ⁽¹⁾ on developing/emerging economies;
- (d) further development of methods for fisheries control and enforcement and traceability of fish and fish products; development of robust ecosystem health indicators and bioeconomic modelling to better understand the direct effects (e.g. fishing) and indirect effects (climate change) of human activities on the fish stock dynamics, the marine environment, and their socio-economic impact.

3.3. Secure, clean and efficient energy

The JRC will focus on the 20-20-20 climate and energy targets and the Union's transition to a competitive low-carbon economy by 2050 with research on technological and socio-economic aspects of:

- (a) security of energy supply, in particular as regards links and interdependencies with the extra-European energy supply and transmission systems; mapping indigenous primary and external energy sources and infrastructures on which Europe depends;
- (b) energy/electricity transmission networks, in particular modelling and simulation of trans-European energy networks, analysis of smart/super grid technologies, and real-time simulation of power systems;
- (c) energy efficiency, in particular methodologies for monitoring and assessing the achievements of energy efficiency policy instruments, techno-economic analysis of the use of energy-efficient technologies and instruments and of smart grids;
- (d) low-carbon technologies (including safety of nuclear energy in the Euratom programme), in particular performance assessment and pre-normative research of prospective low-carbon technologies; analysis and modelling of drivers and barriers of their development and deployment; assessment of renewable resources and bottlenecks, such as critical raw materials, in the supply chain of low-carbon technologies; continuous development of the Information System for the SET-Plan (SETIS) and related activities.

3.4. Smart, green and integrated transport

The JRC will support the 2050 goals of a competitive, smart, resource-efficient and integrated transport system for safe and secure transport of people and goods through laboratory studies, modelling and monitoring approaches on:

- (a) strategic low-carbon transport technologies for all transport modes, including road transport electrification and alternative fuelled aircrafts/vessels/vehicles, and further development of a Commission internal clearing house for collecting and disseminating information on relevant technologies; availability and costs of non-fossil based fuels and energy sources, including impacts of electrified road transport on electricity grids and electricity generation;

⁽¹⁾ COM(2010) 672 final.

- (b) clean and efficient vehicles, in particular definition of harmonised test procedures and assessment of innovative technologies in terms of emissions, conventional and alternative fuel efficiency and safety; developing improved methodologies for emission measurements and environmental pressures calculations; coordinating and harmonising emissions inventorying and monitoring activities at European level;
- (c) smart mobility systems to achieve secure, intelligent and integrated mobility, including techno-economic assessment of new transport systems and components, applications for improved traffic management and contribution to the design of an integrated approach to transport demand and management;
- (d) integrated transport safety, in particular provision of tools and services for collecting, sharing and analysing incidents and accidents information in the aviation, maritime and land transport sectors; enhancing accidents prevention through analysis and crossmodal safety lessons while contributing to cost savings and efficiency gains.

3.5. *Climate action, environment, resource efficiency and raw materials*

The JRC will contribute to the greening of Europe, security of resource supply and a global sustainable management of natural resources through:

- (a) enabling access to interoperable environmental data and information through the further development of standards and interoperability arrangements, geo-spatial tools and innovative information communication technology infrastructures such as the Infrastructure for Spatial Information in the European Union (INSPIRE), and other Union and global initiatives;
- (b) measuring and monitoring key environmental variables and assessing the state and change of natural resources by further developing indicators and information systems contributing to environmental infrastructures; assessing ecosystem services, including their valuation and climate change effects;
- (c) developing an integrated modelling framework for sustainability assessment based on thematic models such as soil, land use, water, air quality, biodiversity, greenhouse gas emissions, forestry, agriculture, energy and transport, also addressing effects of and responses to climate change;
- (d) supporting Union development policy goals by promoting technology transfer, monitoring of essential resources (such as forests, soils, and food supplies), and research to limit the impact of climate change and the environmental impacts of resource use, and to resolve trade-offs in the competition for land as between the production of food or energy and biodiversity;
- (e) integrated assessment related to sustainable production and consumption policies, including security of supply of strategic raw materials, resource efficiency, low-carbon and clean production processes and technologies, products and services development, consumption patterns and trade. Further development and integration in policy analyses of Life Cycle Assessment;
- (f) integrated impact analysis of options for climate change mitigation and/or adaptation based on the development of a quantitative tool set of models at regional and global scale, ranging from the sectoral to the macro-economic level.

3.6. *Europe in a changing world - Inclusive, innovative and reflective societies*

The JRC will contribute to the goals of the flagship initiative "Innovation Union" and the heading "Global Europe" of the Multiannual Financial Framework for 2014-2020 through the following activities:

- (a) comprehensive analyses of drivers and barriers of research and innovation, and development of a modelling platform for the assessment of their micro- and macro-economic impacts;
- (b) contributions to the monitoring of the implementation of the flagship initiative "Innovation Union" via scoreboards, development of indicators etc., and operation of a public information and intelligence system to host relevant data and information;

- (c) operation of a public information and intelligence platform for assisting national and regional authorities with smart specialisation; quantitative economic analysis of the spatial pattern of economic activity, in particular addressing economic, social and territorial disparities and changes in the pattern in response to technological developments;
- (d) econometrics and macro-economic analysis of the reform of the financial system to contribute to maintain an efficient Union framework for financial crisis management; continuing to provide methodological support for monitoring of Member State budget positions in relation to the Stability and Growth Pact;
- (e) monitoring the functioning of the ERA and analysing drivers of and barriers to some of its key elements (such as mobility of researchers and opening up of national research programmes) and proposing relevant policy options; continuing to play an important role in the ERA through networking, training, opening its facilities and databases to users in Member States and in candidate and associated countries;
- (f) developing quantitative economic analysis of the Digital Economy; carrying out research on the impact of information and communication technologies on the goals of the Digital Society; studying the impact of sensitive security issues on the lives of individuals (Digital Living).

3.7. *Secure societies - Protecting freedom and security of Europe and its citizens*

The JRC will contribute to the goals of the heading "Security and Citizenship" of the Multiannual Financial Framework for 2014-2020 through the following activities:

- (a) focusing on identification and assessment of the vulnerability of critical infrastructures (including global navigation systems and financial markets); improvement of tools for fighting fraud against the general budget of the Union and for maritime surveillance; operational performance assessment of technologies for or affecting personal identity (digital identity);
- (b) enhancing the Union's capacity for disaster risk reduction and management of natural and man-made disasters notably through the development of global multi-hazard early warning and risk management information systems, making use of Earth observation technologies;
- (c) continueing to provide tools for the assessment and management of global security challenges such as terrorism and non-proliferation (chemical, biological, radiological and nuclear (in the Euratom programme)) and threats arising from socio-political instability and communicable diseases; new areas to be addressed include vulnerability and resilience to emerging or hybrid threats, e.g. accessibility to raw materials, piracy, resource scarcity/competition and effects of climate change on occurrence of natural disasters.

4. SPECIFIC IMPLEMENTATION ASPECTS

In line with the priorities of the heading "Global Europe" of the Multiannual Financial Framework for 2014-2020, the JRC will strengthen scientific cooperation with key international organisations and third countries (e.g. UN bodies, OECD, United States, Japan, Russia, China, Brazil, and India) in areas having a strong global dimension such as climate change, food security, or nanotechnologies. This cooperation will be coordinated closely with international cooperation activities of the Union and the Member States.

In order to provide an enhanced service to policy making, the JRC will further develop its capacity to analyse and provide cross-sectoral policy options and to carry out related impact assessments. This capacity will be supported in particular through strengthening of:

- (a) modelling in key areas (e.g. energy and transport, agriculture, climate, environment, and economics); the focus will be on both sectoral and integrated models (for sustainability assessments), and it will cover scientific-technical as well as economic aspects;
- (b) forward-looking studies which will provide analyses of trends and events in science, technology and society and on how these may affect public policies, influence innovation, and reinforce competitiveness and sustainable growth; this would enable the JRC to draw attention to issues that may require future policy intervention and to anticipate customers' needs.

The JRC will strengthen its support to the standardisation process and standards as a horizontal component in support of European competitiveness. Activities will include pre-normative research, development of reference materials and measurements, and harmonisation of methodologies. Five focal areas have been identified (energy; transport; the flagship initiative "Digital Agenda"; security and safety (including nuclear in the Euratom programme); and consumer protection). Moreover, the JRC will continue to promote dissemination of its results and provide support on the management of intellectual property rights to Union institutions and bodies.

The JRC will establish a capacity in behavioural sciences to support the development of more effective regulation, complementing JRC activities in selected fields such as nutrition, energy efficiency and product policies.

Socio-economic research will be part of the activities in relevant areas such as the flagship initiative "Digital Agenda", sustainable production and consumption or public health.

In order to fulfil its mission as reference centre for the Union, to continue to play a vital role in the ERA, and to enter into new fields of research, it is essential that the JRC disposes of state-of-the-art infrastructure. The JRC will continue its renovation and refurbishment programme to ensure compliance with applicable environmental and safety and security regulations, and it will invest into scientific infrastructure, including the development of modelling platforms, facilities for new areas such as genetic testing, etc. Such investments will be done in close coordination with the roadmap of ESFRI and take into account existing facilities in the Member States.

ANNEX II

PERFORMANCE INDICATORS

The following table specifies a number of key indicators for assessing the results and impacts of the specific objectives of Horizon 2020. These key indicators may be refined during the implementation of Horizon 2020.

1. PART I. PRIORITY 'EXCELLENT SCIENCE'

Indicators for the specific objectives:

- European Research Council (ERC)
 - Share of publications from ERC-funded projects which are among the top 1 % highly cited per field of science
- Future and Emerging Technologies (FET)
 - Publications in peer-reviewed high impact journals
 - Patent applications and patents awarded in Future and Emerging Technologies
- Marie Skłodowska-Curie actions
 - Cross-sector and cross-country circulation of researchers, including PhD candidates
- Research infrastructures (including eInfrastructures)
 - Number of researchers who have access to research infrastructures through Union support

2. PART II. PRIORITY 'INDUSTRIAL LEADERSHIP'

Indicators for the specific objectives:

- Leadership in enabling and industrial technologies
 - Patent applications and patents awarded in the different enabling and industrial technologies
 - Share of participating firms introducing innovations new to the company or the market (covering the period of the project plus three years)
 - Number of joint public-private publications
- Access to risk finance
 - Total investments mobilised via debt financing and venture capital investments
 - Number of organisations funded and amount of private funds leveraged
- Innovation in SMEs
 - Share of participating SMEs introducing innovations new to the company or the market (covering the period of the project plus three years)
 - Growth and job creation in participating SMEs

3. PART III. PRIORITY 'SOCIETAL CHALLENGES'

Indicators for the specific objectives:

- For all societal challenges:
 - Publications in peer-reviewed high impact journals in the area of the various societal challenges

- Patent applications and patents awarded in the area of the various societal challenges
- Number of prototypes and testing activities
- Number of joint public-private publications

Moreover, for each of the challenges, progress shall be assessed against the contribution to the specific objectives which are detailed in Annex I to Regulation (EU) No 104/2013.

4. PART VI. NON-NUCLEAR DIRECT ACTIONS OF THE JOINT RESEARCH CENTRE (JRC)

Indicators for the specific objective:

- Number of occurrences of tangible specific impacts on European policies resulting from technical and scientific support provided by the JRC
 - Number of peer reviewed publications in high impact journals
-

*ANNEX III***MONITORING**

The Commission will monitor the implementation of Horizon 2020 and in particular the following:

1. Contribution to the realisation of the ERA
 2. Widening participation
 3. SMEs' participation
 4. Social sciences and humanities
 5. Science and society
 6. Gender
 7. International cooperation
 8. Sustainable development and climate change, including information on climate change related expenditure
 9. Bridging from discovery to market application
 10. Digital Agenda
 11. Private sector participation
 12. Funding for public-private and public-public partnerships
 13. Communication and dissemination
 14. Participation patterns of independent experts
-

ANNEX IV

Information to be provided by the Commission in accordance with Article 9(2)

1. Information on individual projects, enabling the monitoring of the entire lifetime of each proposal, covering in particular:
 - submitted proposals,
 - evaluation results for each proposal,
 - grant agreements,
 - completed projects.
 2. Information on the outcome of each call and project implementation, covering in particular:
 - results of each call,
 - outcome of negotiations on grant agreements,
 - project implementation, including payment data and outcome of projects.
 3. Information on programme implementation, including relevant information at the level of the framework programme, the specific programme, each specific objective and related themes and the JRC, as well as the synergies with other relevant Union programmes.
 4. Information on the execution of the Horizon 2020 budget, including information on commitments and payments for initiatives under Articles 185 and 187 TFEU.
-

ANNEX V

Programme Committee configurations

List of configurations ⁽¹⁾ of the Programme Committee in accordance with Article 10(2):

1. Strategic configuration: Strategic overview of the implementation of the whole programme, coherence across the different parts of the programme and cross-cutting issues including the specific objectives "Spreading excellence and widening participation" and "Science with and for society".

Part I — Excellence Science:

2. European Research Council (ERC), Future and Emerging Technologies (FET) and Marie Skłodowska-Curie Actions (MSCA)
3. Research infrastructures

Part II — Industrial Leadership:

4. Information and communication technologies (ICT)
5. Nanotechnologies, Advanced materials, Biotechnology, Advanced manufacturing and processing
6. Space
7. SMEs and Access to risk finance

Part III — Societal Challenges:

8. Health, demographic change and well-being
9. Food security, sustainable agriculture and forestry, marine, maritime and inland water research, and the bioeconomy
10. Secure, clean and efficient energy
11. Smart, green and integrated transport
12. Climate action, environment, resource efficiency and raw materials
13. Europe in a changing world – Inclusive, innovative and reflective societies
14. Secure societies – Protecting Freedom and security of Europe and its citizens

⁽¹⁾ With a view to facilitating the implementation of the programme, for each meeting of the Programme Committee as defined in the agenda, the Commission will reimburse, in accordance with its established guidelines, the expenses of one representative per Member State, as well as one expert/adviser per Member State for those agenda items where a Member State requires specific expertise.

★ Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006	281
★ Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006	289
★ Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings	303
★ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006	320
★ Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006	470
★ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005	487
★ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008	549
★ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009	608
★ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007	671
★ Regulation (EU) No 1309/2013 of the European Parliament and of the Council of 17 December 2013 on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation (EC) No 1927/2006	855

- ★ Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards their application in the year 2014 865
- ★ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multi-annual financial framework for the years 2014-2020 884

DECISIONS

- ★ Decision No 1312/2013/EU of the European Parliament and of the Council of 11 December 2013 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT): the contribution of the EIT to a more innovative Europe ⁽¹⁾ 892
- ★ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism ⁽¹⁾ 924

II *Non-legislative acts*

REGULATIONS

- ★ Council Regulation (Euratom) No 1314/2013 of 16 December 2013 on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework Programme for Research and Innovation 948

DECISIONS

2013/743/EU:

- ★ Council Decision 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 ⁽¹⁾ 965



⁽¹⁾ Text with EEA relevance

EUR-Lex (<http://new.eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.

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