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Proposal for a

COUNCIL REGULATION

laying down the multiannual financial framework for the years 2007-2013

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Treaty on the Functioning of the European Union (hereinafter referred to as the "Treaty") stipulates that a unanimously adopted Council Regulation shall lay down a multiannual financial framework. The financial framework *shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations* and it *shall lay down any other provisions required for the annual budgetary procedure to run smoothly* (Article 312).

The practice to adopt a multiannual financial framework and provisions on the interinstitutional cooperation and budgetary discipline started more than 20 years ago with the first financial framework laid down in the interinstitutional agreement[1]. It has immensely improved and simplified the annual budget procedure and cooperation between institutions and as a consequence increased the budgetary discipline.

The Treaty thus recognizes the importance of the financial framework as a cornerstone of the budgetary architecture of the European Union and finally encodes this successful practice into the system of European Union law.

The current multiannual financial framework for 2007-2013 was agreed between institutions in May 2006 and is laid down in the Interinstitutional Agreement on budgetary discipline and sound financial management[2] (hereinafter referred to as the "current IIA").

The relevant provisions of the current IIA need to be codified into a Council Regulation laying down the multiannual financial framework (hereinafter referred to as the "MFF regulation"). This codification represents an **alignment** of the provisions of the current IIA with the requirements of the Treaty. However, such alignment has to take into account the change of instrument: regulation instead of an IIA.

It is however not possible or feasible to transpose all provisions of the current IIA into the MFF regulation. The current IIA consists of provisions on the financial framework, on instruments that are not included in the financial framework, on the establishment of the budget and on the interinstitutional cooperation and sound financial management. Some of the provisions of the current IIA became obsolete with the entry into force of the Lisbon Treaty, many shall be incorporated in the MFF regulation, some in the Financial Regulation.

A new IIA is still necessary for those provisions that do not fit into either of these two regulations. This approach is supported by the Treaty that recognizes the importance of good interinstitutional cooperation and stipulates (in Article 295) that "*The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements that can be of binding nature*". This confirms and

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[1] Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure, signed by Parliament, the Council and the Commission on 29 June 1988 (OJ L 185, 15.7.1988, p. 33).

[2] Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (OJ C 139, 14.6.2006, p. 1).

recommends the practice of having provisions on interinstitutional cooperation laid down in an IIA.

The architecture of the legal instruments governing the EU budget is complemented by the Financial regulation. According to the Treaty, the Financial regulation shall "*determine in particular the procedure to be adopted for establishing and implementing the budget …*". The wording has not changed compared to the Treaty of Nice, only the adoption procedure has changed to ordinary legislative procedure (i.e. co-decision).

Taking into account all the relevant provisions and requirements of the Treaty, the transposition of the provisions of the current IIA to relevant successive legal instruments is based on the following logic:

1. Many of the existing provisions are rendered **obsolete** by the Lisbon Treaty:

   – Provisions related to the distinction between compulsory and non-compulsory expenditure and the maximum rate of increase. Likewise, the classification of expenditure (now included in Annex III of the current IIA) is obsolete.

   – Significant parts of inter-institutional cooperation in the budgetary sector are obsolete, due to the changes in the budget procedure introduced by the Lisbon Treaty (no second reading, 21 day conciliation committee, possibility for the Commission to amend the draft budget up to the conciliation committee etc.).

2. The points directly related to the financial framework are included in the **MFF Regulation**, i.e. all aspects related to the annual adjustments of the financial framework, revision of the financial framework, adjusting the financial framework to cater for enlargement, duration of the framework and consequences of the absence of a framework, annex I giving the ceilings by heading for each year of the framework.

3. Some of the existing provisions should be included in the **Financial Regulation or its Implementing rules**, rather than the MFF Regulation or IIA (e.g. provisions on financial statements shall be consolidated in the Financial Regulation).

4. The remaining provisions – mainly issues related to pure inter-institutional cooperation adjusted to the requirements of the Treaty - are included in a **new IIA**. This ensures a proper balance between the two arms of the budgetary authority and sufficient flexibility to establish the new budgetary procedure while fulfilling the requirements of the Treaty.

For the sake of integrity the draft MFF Regulation and the Interinstitutional agreement on cooperation in budgetary matters ("new IIA") are presented together. They complement each other and should be negotiated and agreed as one integral package.

This explanatory memorandum covers both proposals and explains how the text of the current IIA was transposed to those two new instruments. To complete the overview, it also includes the provisions of the current IIA to be included in the Financial Regulation.

2. LEGAL ELEMENTS OF THE PROPOSAL

2.1. Multiannual Financial Framework Regulation

Article 1

The wording of Article 1 reproduces the first sentence of Point 9 of the current IIA. It refers to the Annex which sets out the financial framework itself. The financial framework has not been changed, it corresponds to the financial framework as revised for the second phase of the EERP adopted by the Council and EP on 17 December 2009[3]. The second recital clearly specifies that the Regulation incorporates the multiannual financial framework established by the current IIA.

The second sentence of Point 9 of the current IIA ("*It [financial framework] constitutes the reference framework for the interinstitutional discipline*") and point 10 are rendered obsolete by the Treaty that specifies the purpose of the financial framework. Provisions of Point 11 of the current IIA are included in recitals 3, 5 and 6.

Article 2

The first paragraph of Article 2 reproduces the text of Point 12 of the current IIA. It defines the annual ceilings and lays down an obligation for the institutions to respect the ceilings during the budgetary procedure in compliance with the provisions of the Treaty. The first part of the second sentence of Point 12 is left out because it is obsolete. There is no need to provide special rules for cases, where the Regulation is amended. The institutions have to comply with the ceilings which are in force at a certain point of time.

The second paragraph introduces the possibility to exceed the ceilings, if necessary, when the instruments not included in the financial framework are mobilised. The Emergency Aid Reserve, the Solidarity fund, the Flexibility instrument and the European Globalisation Adjustment fund are now defined in Points 25 – 28 of the current IIA. They are not included in the financial framework and ensure that financing in specific circumstances is provided in excess of the ceilings of the financial framework, if needed. They increase the flexibility of the financial framework and are mobilised jointly by the two arms of budgetary authority.

In order to maintain the current level of flexibility and the roles of the institutions in the mobilisation of these instruments, the provisions governing them are included in the new IIA. This conserves to the maximum extent possible the current practice.

Article 3

This Article reproduces the text of Point 15 of the current IIA, with the exception of the reference to the voting rules established under Point 3 of the current IIA. The compliance with the own resources ceiling must be ensured for each year. Should the ceilings for payment appropriations result in call-in rate for own resources exceeding the own resources ceiling, the ceilings of the financial framework have to be adjusted. The reference to Decision

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[3] Decision of the European Parliament and the Council of 17 December 2009 amending the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management as regards the multiannual financial framework / Financing projects in the field of energy in the context of the European Economic Recovery Plan (OJ L 347, 24.12.2009, p. 26).

2007/436/EC, Euratom that specifies the ceilings for own resources and commitment appropriations is included.

Article 4

Reproduces the text of Point 16 of the current IIA and lays down the rules for the annual technical adjustments of the financial framework. The term "two arms of budgetary authority" is replaced by "the European Parliament and the Council" in the whole text.

Article 5

This Article reproduces the text of Point 17 of the current IIA. The wording was only slightly adjusted to replace the reference to the current IIA with the reference to the period when the cohesion policy envelopes were agreed. The adjustment of cohesion policy envelopes will be made in the technical adjustment for the year 2011 to be presented in April 2010.

Article 6

The wording of this Article, which lays down rules for the adjustments related to implementation, corresponds to Point 18 of the current IIA, with the exception of the reference to the voting rules established under Point 3 of the current IIA.

Article 7

The wording of this Article, which lays down rules for the adjustments related to excessive government deficit, reproduces the text of Point 20 of the current IIA.

Article 8

The wording of this Article corresponds to the Points 21-23 of the current IIA.

The revisions of the financial framework are adopted according to the same rules as the regulation itself. In order to retain the current level of flexibility of the financial framework as regards the revisions below the threshold of 0.03% of GNI, paragraph 3 stipulates that the financial framework may be adapted, if need be and within the threshold of 0.03%, in the framework of the annual budgetary procedure. This does not change the current practice where revisions below the same threshold were jointly decided by EP and Council, with Council deciding by qualified majority.

Article 9

The wording of this Article, which lays down rules for the adjustments in case of a revision of the Treaty, reproduces the text of Point 4 of the current IIA.

Article 10

The wording of this Article, which lays down rules for the adjustments to cater for enlargement, reproduces the text of Point 29 of the current IIA, with the exception of the reference to the voting rules established under Point 3 of the current IIA.

Article 11

Article 312(3) 2nd paragraph of the Treaty stipulates that the "financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly". Article 11 lays down the general principles for the interinstitutional cooperation in the budgetary procedure.

The details on the cooperation of the institutions during the budgetary procedure are included in the new IIA based on Article 295 of the Treaty, thus ensuring the necessary flexibility for the new budgetary procedure to be developed in practice.

Article 12

The financing of the Common Foreign and Security Policy has a special standing during the budgetary procedure. In order to maintain the current balance and to help the budgetary procedure to run smoothly, the basic rules (the amount entered in one budget chapter covering the real predictable needs, no funds entered in a reserve) and the amount agreed for the financing of the CFSP (without change) are introduced in the MFF Regulation.

The wording corresponds to the text of part of the 2nd paragraph and the first sentence of the last paragraph of Point 42 of the current IIA. All the other provisions of Points 42 and 43 of the current IIA are placed in Points 18 and 19 of the new IIA. The High Representative for Foreign Affairs and Security Policy shall be responsible to draw up the forecast for the draft budget in the area of CSFP. The text has been changed to reflect that the role of Council or Council presidency included in the current IIA is taken over by the High Representative.

Article 13

Article 13 corresponds to the text of Point 30 of the current IIA on the duration of the financial framework and consequences of the absence thereof. The obligation for the Commission to present a new financial framework before July 2011 is maintained. The wording of second paragraph of Point 30 is slightly adjusted to comply with the wording of Article 312(4) of the Treaty.

Article 14

The final Article of the MFF regulation sets the date of entry into force of the regulation. The new IIA should enter into force on the same day. Both instruments cover the period 2007-2013. The years before the entry into force of the regulation are included since the proposals concern the alignment of the existing IIA with the requirements of the new Treaty.

2.2. Interinstitutional Agreement on cooperation in budgetary matters

The draft Interinstitutional agreement on cooperation in budgetary matters ("new IIA") includes all the provisions of the Interinstitutional agreement of 17 May 2006 on budgetary discipline and sound financial management ("current IIA") that are not

a) directly linked to the financial framework itself and as such included in the MFF Regulation,

b) rendered obsolete by the Treaty,

c) proposed to be included in the Financial Regulation.

The basic logic is to keep as far as possible the rules that are currently in place and that have proven to be efficient and to preserve the balance of powers and the involvement of the institutions in the budgetary procedure.

Introduction – points 1-6 of the new IIA

The introductory part of the new IIA reproduces the wording of Points 1-8 of the current IIA with exception of Point 4 that was transposed to the MFF regulation (Art. 11) and point 7 that is obsolete.

In Point 1 a reference to the Article 295 of the Treaty has been added as the legal basis for the Interinstitutional agreement.

In Point 3 the reference to the MFF Regulation and the Financial Regulation has been included. The reference to Article 272(9) of the Treaty establishing the European Community is obsolete and has been deleted. The voting rules for decision making procedures specified in the IIA are maintained without changes (i.e. qualified majority in the Council and majority of its members and three fifths of the vote cast in the EP).

The structure of the IIA consisting of three parts has been preserved and is described in Point 5. Part one includes some complementary provisions to the financial framework and mainly the provisions on the instruments outside the financial framework. Part II accompanied by the Annex includes the provisions on the interinstitutional cooperation adjusted to the new budgetary procedure. It also includes rules for the inclusion of the amount in legislative acts, provisions on the financing of CFSP and on the fisheries agreements. Part III takes over all provisions of Part III of the current IIA that remain valid.

Point 6 sets the date of entry into force of the new IIA that shall be the same as for the MFF regulation. The new IIA will at that moment replace the current IIA.

Part I – provisions related to the financial framework and special instruments not included in the financial framework

A. Provisions related to the financial framework

Point 7 of the new IIA reproduces the wording of the last paragraph of Point 11 of the current IIA. It concerns information about operations not included in the budget (i.e. European Development Fund) and about the development of the categories of own resources. This provision is not directly linked to the financial framework and as such does not belong to the MFF Regulation.

The practice of providing this information is maintained but it is proposed to present it no longer with the technical adjustment of the financial framework but with the documents accompanying the draft budget where this more logically belongs. The timing of the presentation remains practically the same (end of April/beginning of May).

Point 8 of the new IIA concerns the margins beneath the ceilings. The MFF Regulation establishes the ceilings for all headings that have to be respected during each annual budgetary procedure as required by the Treaty. However, the practice to ensure as far as possible sufficient margins beneath the ceilings should be preserved. It constitutes an element of the interinstitutional cooperation and good will of the institutions in the budgetary procedure and as such belongs in the IIA. The provision is kept without any changes.

Point 9 of the new IIA copies the text of Point 19 of the current IIA on the updating of forecast for payment appropriations after 2013. Again, as this does not directly influence the current financial framework, it is appropriate to keep it in the new IIA.

B. Provisions related to the special instruments not included in the financial framework

The existing instruments that are not included in the financial framework (the Emergency Aid Reserve, the Solidarity Fund, the Flexibility instrument and the European Globalisation Adjustment Fund) are maintained in the IIA. The MFF Regulation includes in Article 2 the possibility to mobilise them, if necessary, over and above the ceilings established by the financial framework.

The provisions on the objectives and purpose of the instruments and the amounts are preserved as in the current IIA as well as the roles of the institutions in their mobilisation, i.e. joint decision of the institutions according to the voting rules included in Point 3.

The proposed split of the provisions on the instruments not included in the financial framework intends to preserve the actual practice. However, the practice itself has rendered some provisions on the mobilisation of those instruments obsolete. The current IIA calls for a trilogue procedure to be initiated each time the Commission makes a proposal to mobilise one of these instruments. In fact, a trilogue is frequently avoided as both arms of the budgetary authority are usually able to agree to the Commission's proposal without the necessity of a formal trilogue. It is therefore proposed to align the text to the real practice. The obligation to call the trilogue each time the proposal to mobilise of the instruments is replaced by the obligation to call the trilogue only in the case of disagreement.

As regards the Flexibility instrument, an amendment is suggested for the presentation of the proposal to mobilise the instrument. The current link with "budgetary instruments" and the obligation to present it with the [preliminary] draft budget (see Point 27, 4^{th} paragraph of the current IIA) is not needed and might be counter-productive (for instance, in the future, it could be presented directly during the conciliation). The simplified wording would enable to present the proposal to use the Flexibility instrument during the Conciliation committee that could help to find a compromise solution for the annual budget. It has already been the current practice.

Part II – improvement of interinsitutional cooperation in budgetary procedure

A. The interinstitutional collaboration procedure

The provisions on interinstitutional cooperation have been significantly amended to comply with the new budgetary procedure introduced by the Treaty. While they were spread between the main text and annex II in the current IIA, it is proposed to include all the provisions on interinstitutional cooperation in the same annex. The new annex incorporates the provisions of the current procedure that remain valid (e.g. wording of Points 32 and 33 of the current IIA – transposed as Points 3-6 of the Annex of the new IIA) and introduce new rules required for the new budgetary procedure and the Conciliation Committee to be functional. The description of the collaboration principles also covers the pragmatic calendar. The provisions agreed on amending budgets in the declaration of the three institutions of November 2009 on the transitional measures have also been included. Accordingly, this new annex will replace the declaration on the transitional measures for the pragmatic calendar and the amending budgets.

B. Incorporation of financial provisions in legislative acts

The provisions of the Points 37 and 38 of the current IIA are reproduced in the text of the new IIA, Points 15 and 16, without any changes of substance. The only changes are to replace the reference to the co-decision procedure with the reference to the ordinary legislative procedure and the reference to the EC Treaty with the reference to the Treaty on the functioning of the EU.

C. Expenditure relating to fisheries agreements

It is proposed to align the provisions of the current IIA on the expenditure relating to fisheries agreements with the new budgetary rules. The proposed change in wording reflects those parts of the existing text which are still relevant and they are purely related to good cooperation and keeping the institutions informed of developments. The new wording is included in the body of the new IIA and replaces the Annex IV of the current IIA.

D. Financing of the Common Foreign and Security policy

All the provisions of Points 42 and 43 of the current IIA (except those included in Article 12 of the MFF Regulation) are maintained in the new IIA (points 18 and 19). The Council Presidency or the Council is replaced by the High Representative for Foreign Affairs and Security Policy and the Council second reading with the Conciliation Committee.

Part III – Sound financial management of EU funds

This part reproduces the text of the same part of the current IIA with exception of Points 45 and 47 that are obsolete. The provisions of Point 44 are to be included in the Financial regulation and the relevant basic acts regarding the structural and cohesion funds.

A. Financial programming

The provisions on financial programming correspond to the wording of Point 46 of the current IIA, the only two minor changes being deleting the reference to the "preliminary" draft budget and replacing the reference to Annex II, Part D for the ceilings for pilot projects and preparatory actions with the reference to Article 32 of the Implementing rules of the Financial regulation.

B. Agencies and European schools

While the first part is identical to Point 47 of the current IIA, it is proposed to incorporate in a second part the provisions agreed jointly by the three institutions on 12 November 2009 on the implementation of this procedure in order to keep one single set of rules for the cooperation in the budgetary field in this IIA.

C. New financial instruments

The provisions relating to the new financial instruments (Point 49 of the current IIA) are taken over with the only change being the suppression of the reference to "preliminary" draft budget.

2.3. Financial Regulation

Some of the provisions of the current IIA are already included in the Financial Regulation or its Implementing rules or would logically be better placed there.

This regards the following provisions of the current IIA:

– Point 14 of the current IIA will be introduced in the FR (new Article 47b) as it concerns both the budget and the MAFF. It is not included in the MFF Regulation because Article 310 of the TFEU foresees such provision for budgetary discipline in relation to the multiannual financial framework. It is therefore important to have the same link to the budget as well, as was the case in the current IIA.

– Provisions on financial statements (Point 39) are dealt with in Article 28 of the Financial Regulation an in Article 22 of its Implementing rules.

– The second part of Point 40 ("the two arms of the budgetary authority undertake to respect the allocations of commitment appropriations provided for in the relevant basic acts for structural operations, rural development and European Fund for fisheries") – this provision will be introduced in a new Article 155a of the Financial regulation (in Part II – special provisions) which specifically concerns structural operations, rural development and European Fisheries Fund.

– The ceilings for the preparatory actions and pilot projects now included in Part D, Annex II of the current IIA are not included in the new IIA as they are already laid down in Article 32 of the Implementing rules of the Financial Regulation.

– New provisions introduced in Article 317 TFEU concerning the control and audit obligations of the Member States in the implementation of the budget, together with Point 44 of the current IIA, require an in-depth analysis and will therefore be proposed together with the triennial revision of the Financial Regulation.

– Point 45 of the current IIA setting up the rules for the revision of the Financial regulation is obsolete. The rules for the adoption of the Financial regulation are foreseen in the Treaty.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the functioning of the European Union, and in particular Article 312 thereof,

Having regard to the proposal from the European Commission[4],

Having regard to the consent of the European Parliament[5],

Acting in accordance with a special legislative procedure,

Whereas:

(1) Since 1988 the multiannual financial framework and related provisions were laid down in interinstitutional agreements. The multiannual financial framework for 2007-2013 was established by Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management[6]. Taking into account that practice, Article 312 of the Treaty provides that the multiannual financial framework needs to be laid down in the form of a regulation. It is therefore necessary to incorporate the relevant provisions from the Interinstitutional agreement of 17 May 2006 into a regulation.

(2) It is also necessary to incorporate the multiannual financial framework established by the Interinstitutional agreement of 17 May 2006 into this regulation.

(3) The financial framework should establish the ceilings for commitments and payments. Those ceiling should respect the ceilings of commitments and own resources laid down in Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of European Communities' own resources[7]. Amounts of expenditure in terms of appropriations for commitments should be established for each of the years 2007 to 2013 and for each heading or subheading. Overall annual totals of expenditure should be also established in terms of both appropriations for commitments and appropriations for payments.

[4] OJ C , , p. .
[5] OJ C , , p. .
[6] OJ C 139, 14.6.2006, p. 1.
[7] OJ L 163, 23.6.2007, p. 17.

(4) Special instruments**,** the Emergency Aid Reserve, the Solidarity fund, the Flexibility instrument and the European Globalisation Adjustment fund, are necessary to allow the Union to react to specified unforeseen circumstances or to allow the financing of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more other headings as laid down in the financial framework. It is therefore necessary to provide for a possibility to enter in the budget commitment appropriations over and above the ceilings set out in financial framework where it is necessary to use special instruments.

(5) The financial framework should be laid down in 2004 prices. The rules for technical adjustments of the financial framework to recalculate the ceilings and remaining margins in the current prices should also be laid down.

(6) The financial framework should not take account of budget items financed by revenue earmarked within the meaning of Article 18 of the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[8].

(7) The ceilings for commitment appropriations for Heading 1b Cohesion for growth and employment and the methodology to establish country envelopes were agreed by the European Council in its meeting of 15-16 December 2005. The estimates of Gross Domestic Product (hereinafter "GDP") used to establish the national envelopes were based on the statistics published in April 2005 as specified in Point 41 of the final Presidency proposal on the Financial Perspective 2007-2013 attached to the European Council conclusions adopted in its meeting of 15-16 December 2005. Point 42 of that document stipulates that in 2010 the envelopes need to be adjusted if the actual cumulated GDP growth for the 2007-2009 differs more than +/- 5% from the forecast used in 2005.

(8) Rules should be laid down for other situations that may require adjustment of the financial framework. These adjustments may be related to the implementation of the budget, excessive government deficit, revision of the Treaty or enlargements.

(9) It is necessary to provide for revisions of the financial framework in case of unforeseen circumstances that cannot be financed within the established ceilings of the financial framework. The Commission in a proposal for a revision should examine the scope for reallocation within or between the headings and of possible offsetting of any raising of the ceiling for one heading by the lowering of the ceiling for another. The flexibility of the financial framework to react to unforeseen circumstances should be ensured by introducing a possibility to adapt the financial framework during the budgetary process within a margin for unforeseen expenditure by up to 0.03% of the Gross National Income of the Union.

(10) It is necessary to provide for general rules on interinstitutional cooperation in the budgetary procedure.

(11) In order to help the budgetary procedure to run smoothly, it is necessary to provide for the basic rules for the budgeting of the expenditure for the Common Foreign and Security policy and overall amount for the period covered by the financial framework.

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8 OJ L 248, 16.9.2002, p. 1.

(12) Detailed arrangements on interinstitutional cooperation in the budgetary procedure and on the budgeting of the expenditure for the Common Foreign and Security policy are laid down in the Interinstitutional Agreement of […] 2010 between the European Parliament, the Council and the Commission on cooperation in budgetary matters[9].

(13) The Commission should present a proposal for a new multiannual financial framework before July 2011 to enable the institutions to adopt it sufficiently in advance before the start of the following financial framework. The financial framework laid down in this Regulation should continue to apply if the new framework is not adopted before the end of the term of the financial framework laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Multiannual Financial Framework

The multiannual financial framework for the period 2007-2013 (hereinafter referred to as 'the financial framework') is set out in the Annex.

Article 2

Compliance with the ceilings of the financial framework

1. Each of the absolute amounts set out in the financial framework represents an annual ceiling of expenditure under the general budget of the European Union. The European Parliament, the Council and the Commission shall comply with the annual expenditure ceilings, set out in the financial framework, during each budgetary procedure and when implementing the budget for the year concerned.

2. The commitment appropriations may be entered in the budget over and above the ceilings of the relevant headings laid down in the financial framework where it is necessary to use the resources from the Emergency Aid Reserve, the Solidarity fund, the Flexibility instrument or the European Globalisation Adjustment fund in accordance with Council Regulation (EC) No 2012/2002[10], Regulation (EC) No 1927/2006 of the European Parliament and of the Council[11] and the Interinstitutional Agreement of […] 2010.

Article 3

Respect of own resources ceiling

1. For each of the years covered by the financial framework, the total appropriations for payments required, after annual adjustment and taking account of any other adjustments or revisions, may not be such as to produce a call-in rate for own

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9 OJ C …
10 OJ L 311, 14.11.2002, p. 3.
11 OJ L 406, 30.12.2006, p. 1.

resources that exceeds the own resources ceiling set out in Decision 2007/436/EC, Euratom.

2. Where necessary the ceilings set in the financial framework shall be lowered in order to ensure compliance with the own resources ceiling set out in Decision 2007/436/EC, Euratom.

Article 4

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 financial framework:

   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 out in Decision 2007/436/EC, Euratom.

2. The Commission shall make the technical adjustments referred to in paragraph 1 on the basis of a fixed deflator of 2% a year.

3. The results of the technical adjustments referred to in paragraph 1 and the underlying economic forecasts shall be communicated to the European Parliament and the Council.

4. No further technical adjustments may be made in respect of the year concerned, either during the year or as ex-post corrections during subsequent years.

Article 5

Adjustment of cohesion policy envelopes

1. In its technical adjustment for the year 2011, if it is established that cumulated Gross Domestic Product ("GDP") of any Member State for the years 2007-2009 has diverged by more than +/- 5 % from the cumulated GDP estimated in 2005 for the establishment of cohesion policy envelopes for Member States for the period 2007-2013**,** the Commission shall adjust the amounts allocated from funds supporting cohesion to the Member State concerned for that period.

2. The total net effect, whether positive or negative, of the adjustments referred to in paragraph 1 may not exceed EUR 3 billion. If the net effect is positive, total additional resources shall be limited to the level of under-spending against the ceilings for sub-heading 1b for the years 2007-2010.

   The required adjustments shall be spread in equal proportions over the years 2011-2013 and the corresponding ceilings of the financial framework shall be modified accordingly.

Article 6

Adjustments related to implementation

When notifying the European Parliament and the Council of the results of the technical adjustments to the financial framework, the Commission shall present any proposals for adjustments to the total appropriations for payments which it considers necessary, in the light of implementation, to ensure an orderly progression in relation to the appropriations for commitments. The decisions on those proposals shall be taken before 1 May of year n.

Article 7

Adjustments related to excessive government deficit

In the case of the lifting of a suspension of budgetary commitments concerning the Cohesion Fund in the context of an excessive government deficit procedure, the Council, on a proposal from the Commission and in compliance with the relevant basic act, shall decide on a transfer of suspended commitments to the following years. Suspended commitments of year n cannot be re-budgeted beyond year n+2.

Article 8

Revision of the financial framework

1. In case of unforeseen circumstances the financial framework may, on a proposal from the Commission, be revised in compliance with the own resources ceiling set out in the Decision 2007/436/EC, Euratom.

2. As a general rule, any proposal for revision referred to in 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 adaptation of the financial framework by up to 0.03% of the Gross National Income of the Union within the margin for unforeseen expenditure may be adopted jointly by the European Parliament and the Council within the framework of the budgetary procedure.

4. Any proposal for revision of the financial framework 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. Where feasible, the objective shall 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.

5. Any proposal for revision of the financial framework shall examine the scope for offsetting any raising of the ceiling for one heading by the lowering of the ceiling for another.

6. Any revision shall maintain an appropriate relationship between commitments and payments.

Article 9

Adjustment of the financial framework in case of a revision of the Treaty

Should a Treaty revision with budgetary implications occur during the financial framework, the necessary adjustments to the financial framework shall be made accordingly.

Article 10

Adjustment of the financial framework in case of enlargement

If new Member States accede to the Union during the period covered by the financial framework, the financial framework shall, on the proposal from the Commission, be adjusted to take account of the expenditure requirements resulting from the outcome of the accession negotiations.

Article 11

Interinstitutional cooperation in the budgetary procedure

The European Parliament, the Council and the Commission (hereinafter the "institutions") shall take any 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 cooperate through appropriate interinstitutional contacts to monitor the progress of the work and analyse the degree of convergence at all stages of the procedure.

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 budget.

Trilogues may be held at all stages of the procedure and at different levels of representation, depending on the nature of the expected discussion. 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 of arrangements for the meetings in good time.

Article 12

Financing of the Common foreign and security policy

The total amount of operating Common foreign and security policy (hereinafter "CFSP") expenditure shall be entered entirely in one budget chapter, entitled CFSP. That amount shall cover the real predictable needs, assessed in the framework of the establishment of the draft budget, on the basis of forecasts drawn up annually by the High Representative of the Union for Foreign Affairs and Security Policy, and a reasonable margin for unforeseen actions. No funds may be entered in a reserve.

At least EUR 1 740 million shall be available for the CFSP over the period 2007-2013.

Article 13

Consequences of the absence of a financial framework

Before 1 July 2011, 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 2013, the ceilings for the last year covered by the existing financial framework and other provisions of this Regulation shall continue to apply until a regulation determining a new financial framework is adopted.

If new Member States accede to the Union after 2013, and if necessary, the extended financial framework shall be adjusted in order to take into account the results of accession negotiations.

Article 14

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,

For the Council
The President

ANNEX

FINANCIAL FRAMEWORK 2007-2013

(EUR million - constant 2004 prices)

COMMITMENT APPROPRIATIONS	2007	2008	2009	2010	2011	2012	2013	Total 2007-2013
1. Sustainable Growth	**50 865**	**53 262**	**55 879**	**56 435**	**55 400**	**56 866**	**58 256**	**386 963**
1a Competitiveness for Growth and Employment	8 404	9 595	12 018	12 580	11 306	12 122	12 914	78 939
1b Cohesion for Growth and Employment	42 461	43 667	43 861	43 855	44 094	44 744	45 342	308 024
2. Preservation and Management of Natural Resources	**51 962**	**54 685**	**51 023**	**53 238**	**52 528**	**51 901**	**51 284**	**366 621**
of which: market related expenditure and direct payments	43 120	42 697	42 279	41 864	41 453	41 047	40 645	293 105
3. Citizenship, freedom, security and justice	**1 199**	**1 258**	**1 375**	**1 503**	**1 645**	**1 797**	**1 988**	**10 765**
3a Freedom, Security and Justice	600	690	785	910	1 050	1 200	1 390	6 625
3b Citizenship	599	568	590	593	595	597	598	4 140
4. EU as a global player	**6 199**	**6 469**	**6 739**	**7 009**	**7 339**	**7 679**	**8 029**	**49 463**
5. Administration [(1)]	**6 633**	**6 818**	**6 816**	**6 999**	**7 255**	**7 400**	**7 610**	**49 531**
6. Compensations	**419**	**191**	**190**					**800**
TOTAL COMMITMENT APPROPRIATIONS	**117 277**	**122 683**	**122 022**	**125 184**	**124 167**	**125 643**	**127 167**	**864 143**
as a percentage of GNI	1,08%	1,09%	1,06%	1,06%	1,03%	1,02%	1,01%	1,048%

TOTAL PAYMENT APPROPRIATIONS	**115 142**	**119 805**	**109 091**	**119 245**	**116 884**	**120 575**	**119 784**	**820 526**
as a percentage of GNI	1,06%	1,06%	0,95%	1,01%	0,97%	0,98%	0,95%	1,00%
Margin available	0,18%	0,18%	0,29%	0,23%	0,27%	0,26%	0,29%	0,24%
Own Resources Ceiling as a percentage of GNI	1,24%	1,24%	1,24%	1,24%	1,24%	1,24%	1,24%	1,24%

(1) The expenditure on pensions included under the ceiling for this heading is calculated net of the staff contributions to the relevant scheme, within the limit of € 500 million at 2004 prices for the period 2007-2013.