

# Official Journal

## of the European Union

# L 310

English edition

## Legislation

Volume 49

9 November 2006

Contents

I Acts whose publication is obligatory

- ★ **Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument** ..... 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)** ..... 15

## I

(Acts whose publication is obligatory)

**REGULATION (EC) No 1638/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 24 October 2006**

**laying down general provisions establishing a European Neighbourhood and Partnership Instrument**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179 and 181a thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

- (1) A new framework for planning and delivering assistance is proposed in order to make the Community's external assistance more effective. This Regulation constitutes one of the general instruments providing direct support for the European Union's external policies.
- (2) The Copenhagen European Council of 12 and 13 December 2002 confirmed that enlargement of the European Union presents an important opportunity to take forward relations with neighbouring countries based on shared political and economic values, and that the European Union remains determined to avoid new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the European Union.
- (3) The Brussels European Council of 17 and 18 June 2004 reiterated the importance it attached to strengthening cooperation with those neighbours, on the basis of partnership and joint ownership and building on shared values of democracy and respect for human rights.
- (4) The privileged relationship between the European Union and its neighbours should build on commitments to common values, including democracy, the rule of law, good governance and respect for human rights, and to the principles of market economy, open, rule-based and fair trade, sustainable development and poverty reduction.
- (5) It is important that Community assistance under this Regulation be provided in compliance with the

international agreements and international conventions to which the Community, the Member States and the partner countries are parties and that it be delivered taking into account the general principles of international law commonly accepted by the parties.

- (6) In eastern Europe and the southern Caucasus, the Partnership and Cooperation Agreements provide the basis for contractual relations. In the Mediterranean, the Euro-Mediterranean Partnership (the Barcelona Process) provides a regional framework for cooperation which is complemented by a network of Association Agreements.
- (7) Under the European Neighbourhood Policy, a set of priorities are defined together by the European Union and the partner countries, to be incorporated in a series of jointly agreed Action Plans, covering a number of key areas for specific action, including political dialogue and reform, trade and economic reform, equitable social and economic development, justice and home affairs, energy, transport, information society, environment, research and innovation, the development of civil society and people-to-people contacts. Progress towards meeting these priorities will contribute to realising the full potential of the Partnership and Cooperation Agreements and the Association Agreements.
- (8) In order to support the partner countries' commitment to common values and principles and their efforts in the implementation of the action plans, the Community should be in a position to provide assistance to those countries and to support various forms of cooperation among them and between them and the Member States with the aim of developing a zone of shared stability, security and prosperity involving a significant degree of economic integration and political cooperation.
- (9) Promotion of political, economic and social reforms across the neighbourhood is an important objective of Community assistance. In the Mediterranean this objective will be further pursued within the Mediterranean strand of the

<sup>(1)</sup> Opinion of the European Parliament of 6 July 2006 (not yet published in the Official Journal) and Council Decision of 17 October 2006.

- Strategic Partnership with the Mediterranean and the Middle East. The relevant elements of the European Union strategy for Africa will be taken into account in the relations with the Mediterranean neighbours from North Africa.
- (10) It is important that support to be provided to neighbouring developing countries within the framework established by the European Neighbourhood Policy should be coherent with the objectives and principles of the European Community Development Policy, as outlined in the Joint Statement entitled 'The European Consensus on Development' <sup>(1)</sup> adopted on 20 December 2005 by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission.
- (11) The European Union and Russia have decided to develop their specific strategic partnership through the creation of four common spaces, and Community assistance will be used to support the development of this partnership and to promote cross-border cooperation at the border between Russia and its European Union neighbours.
- (12) The Northern Dimension provides a framework for cooperation between the European Union, Russia, Norway and Iceland and it is important that Community assistance be also used to support activities contributing to the implementation of such a framework. The new objectives of this policy will be set out in a political declaration and a policy framework document to be prepared on the basis of the guidelines approved by the Northern Dimension ministerial meeting of 21 November 2005.
- (13) For Mediterranean partners, assistance and cooperation should take place within the framework of the Euro-Mediterranean Partnership established by the Barcelona Declaration of 28 November 1995 and affirmed at the 10th anniversary Euro-Mediterranean Summit of 28 November 2005, and should take into account the agreement reached in that context on establishing a free-trade area for goods by 2010 and beginning a process of asymmetric liberalisation.
- (14) It is important to foster cooperation both at the European Union external border and among partner countries, especially those among them that are geographically close to each other.
- (15) In order to avoid the creation of new dividing lines, it is particularly important to remove obstacles to effective cross-border cooperation along the external borders of the European Union. Cross-border cooperation should contribute to integrated and sustainable regional development between neighbouring border regions and harmonious territorial integration across the Community and with neighbouring countries. This aim can best be achieved by combining external policy objectives with environmentally sustainable economic and social cohesion.
- (16) In order to assist neighbouring partner countries in achieving their objectives, and to promote cooperation between them and Member States, it is desirable to establish a single policy-driven instrument which will replace a number of existing instruments, ensuring coherence and simplifying assistance programming and management.
- (17) This instrument should also support cross-border cooperation between partner countries and the Member States bringing substantial efficiency gains operating through a single management mechanism and with a single set of procedures. It should build on the experience acquired from the implementation of the Neighbourhood Programmes in the period 2004 to 2006 and operate on the basis of principles such as multi-annual programming, partnership and cofinancing.
- (18) It is important that border regions which belong to countries of the European Economic Area (EEA) and which are currently taking part in cross-border cooperation involving Member States and partner countries may continue to do so on the basis of their own resources.
- (19) This Regulation establishes for the period 2007 to 2013 a financial envelope which constitutes the prime reference amount for the budgetary authority according to point 37 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(2)</sup>.
- (20) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(3)</sup>.
- (21) The use of the management procedure should be applicable when defining the implementing rules which will govern the implementation of cross-border cooperation and when adopting strategy papers, action programmes and special measures not provided for in strategy papers whose value exceeds the threshold of EUR 10 000 000.
- (22) Since the objectives of this Regulation, namely to promote enhanced cooperation and progressive economic integration between the European Union and neighbouring countries, cannot be sufficiently achieved by the Member States and can, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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.

<sup>(2)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

<sup>(1)</sup> OJ C 46, 24.2.2006, p. 1.

(23) This Regulation makes it necessary to repeal Council Regulations (EEC) No 1762/92 of 29 June 1992 on the implementation of the Protocols on financial and technical cooperation concluded by the Community with Mediterranean non-member countries <sup>(1)</sup>, (EC) No 1734/94 of 11 July 1994 on financial and technical cooperation with the West Bank and the Gaza Strip <sup>(2)</sup> and (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership <sup>(3)</sup>. Equally, this Regulation will replace Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in eastern Europe and central Asia <sup>(4)</sup>, which expires on 31 December 2006,

HAVE ADOPTED THIS REGULATION:

#### TITLE I

### OBJECTIVES AND PRINCIPLES

#### Article 1

#### Subject matter and scope

1. This Regulation establishes a Neighbourhood and Partnership Instrument to provide Community assistance for the development of an area of prosperity and good neighbourliness involving the European Union, and the countries and territories listed in the Annex (hereinafter partner countries).
2. Community assistance shall be used for the benefit of partner countries. Community assistance may be used for the common benefit of Member States and partner countries and their regions, for the purpose of promoting cross-border and trans-regional cooperation as defined in Article 6.
3. The European Union is founded on the values of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law and seeks to promote commitment to these values in partner countries through dialogue and cooperation.

#### Article 2

#### Scope of Community assistance

1. Community assistance shall promote enhanced cooperation and progressive economic integration between the European Union and the partner countries and, in particular, the implementation of partnership and cooperation agreements, association agreements or other existing and future agreements. It shall also encourage partner countries' efforts aimed at promoting good governance and equitable social and economic development.

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 1. Regulation as amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

<sup>(2)</sup> OJ L 182, 16.7.1994, p. 4. Regulation as last amended by Regulation (EC) No 2110/2005 of the European Parliament and of the Council (OJ L 344, 27.12.2005, p. 1).

<sup>(3)</sup> OJ L 189, 30.7.1996, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005.

<sup>(4)</sup> OJ L 12, 18.1.2000, p. 1. Regulation as amended by Regulation (EC) No 2112/2005.

2. Community assistance shall be used to support measures within the following areas of cooperation:

- (a) promoting political dialogue and reform;
- (b) promoting legislative and regulatory approximation towards higher standards in all relevant areas and in particular to encourage the progressive participation of partner countries in the internal market and the intensification of trade;
- (c) strengthening of national institutions and bodies responsible for the elaboration and the effective implementation of policies in areas covered in association agreements, partnership and cooperation agreements, and other multilateral agreements to which the Community and/or its Member States and partner countries are parties, whose purpose is the achievement of objectives as defined in this Article;
- (d) promoting the rule of law and good governance, including strengthening the effectiveness of public administration and the impartiality and effectiveness of the judiciary, and supporting the fight against corruption and fraud;
- (e) promoting sustainable development in all aspects;
- (f) pursuing regional and local development efforts, in both rural and urban areas, in order to reduce imbalances and improve regional and local development capacity;
- (g) promoting environmental protection, nature conservation and sustainable management of natural resources including fresh water and marine resources;
- (h) supporting policies aimed at poverty reduction, to help achieve the UN Millennium Development Goals;
- (i) supporting policies to promote social development, social inclusion, gender equality, non-discrimination, employment and social protection including protection of migrant workers, social dialogues, and respect for trade union rights and core labour standards, including on child labour;
- (j) supporting policies to promote health, education and training, including not only measures to combat the major communicable diseases and non-communicable diseases and disorders, but also access to services and education for good health, including reproductive and infant health for girls and women;
- (k) promoting and protecting human rights and fundamental freedoms, including women's rights and children's rights;

- (l) supporting democratisation, *inter alia*, by enhancing the role of civil society organisations and promoting media pluralism, as well as through electoral observation and assistance;
- (m) fostering the development of civil society and of non-governmental organisations;
- (n) promoting the development of a market economy, including measures to support the private sector and the development of small and medium-sized enterprises, to encourage investment and to promote global trade;
- (o) promoting cooperation in the sectors of energy, telecommunication and transport, including on interconnections, networks and their operations, enhancing the security and safety of international transport and energy operations and promoting renewable energy sources, energy efficiency and clean transport;
- (p) providing support for actions aimed at increasing food safety for citizens, in particular in the sanitary and phytosanitary domains;
- (q) ensuring efficient and secure border management;
- (r) supporting reform and strengthening capacity in the field of justice and home affairs, including issues such as asylum, migration and readmission, and the fight against, and prevention of, trafficking in human beings as well as terrorism and organised crime, including its financing, money laundering and tax fraud;
- (s) supporting administrative cooperation to improve transparency and the exchange of information in the area of taxation in order to combat tax avoidance and evasion;
- (t) promoting participation in Community research and innovation activities;
- (u) promoting cooperation between the Member States and partner countries in higher education and mobility of teachers, researchers and students;
- (v) promoting multicultural dialogue, people-to-people contacts, including links with communities of immigrants living in Member States, cooperation between civil societies, cultural institutions and exchanges of young people;
- (w) supporting cooperation aimed at protecting historical and cultural heritage and promoting its development potential, including through tourism;
- (x) supporting participation of partner countries in Community programmes and agencies;
- (y) supporting cross-border cooperation through joint local initiatives to promote sustainable economic, social and environmental development in border regions and integrated territorial development across the Community's external border;
- (z) promoting regional and sub-regional cooperation and integration, including, where appropriate, with countries not eligible for Community assistance under this Regulation;
- (aa) providing support in post-crisis situations, including support to refugees and displaced persons, and assisting in disaster preparedness;
- (bb) encouraging communication and promoting exchange among the partners on the measures and activities financed under the programmes;
- (cc) addressing common thematic challenges in fields of mutual concern and any other objectives consistent with the scope of this Regulation.

#### Article 3

#### Policy framework

1. The partnership and cooperation agreements, the association agreements and other existing or future agreements which establish a relationship with partner countries, and the relevant Commission communications and Council conclusions laying down guidelines for European Union policy towards these countries, shall provide an overall policy framework for the programming of Community assistance under this Regulation. Jointly agreed action plans or other equivalent documents shall provide a key point of reference for setting Community assistance priorities.

2. Where no agreements, as mentioned in paragraph 1, between the European Union and partner countries exist, Community assistance may be provided when it proves useful to pursue European Union policy objectives, and shall be programmed on the basis of such objectives.

#### Article 4

#### Complementarity, partnership and co financing

1. Community assistance under this Regulation shall normally complement or contribute to corresponding national, regional or local strategies and measures.

2. Community assistance under this Regulation shall normally be established in partnership between the Commission and the beneficiaries. The partnership shall involve, as appropriate, national, regional and local authorities, economic and social partners, civil society and other relevant bodies.



3. The beneficiary countries shall involve, as appropriate, the relevant partners at the appropriate territorial level, in particular at regional and local level, in the preparation, implementation and monitoring of programmes and projects.

4. Community assistance under this Regulation shall normally be co-financed by the beneficiary countries through public funds, contributions from the beneficiaries or other sources. Co-financing requirements may be waived in duly justified cases and when this is necessary to support the development of civil society and non-state actors for measures aimed at promoting human rights and fundamental freedoms and supporting democratisation.

#### Article 5

### Coherence, compatibility and coordination

1. Programmes and projects financed under this Regulation shall be consistent with European Union policies. They shall comply with the agreements concluded by the Community and its Member States with the partner countries and respect commitments under multilateral agreements and international conventions to which they are parties, including commitments on human rights, democracy and good governance.

2. The Commission and the Member States shall ensure coherence between Community assistance provided under this Regulation and financial assistance provided by the Community and the Member States through other internal and external financial instruments and by the European Investment Bank (EIB).

3. The Commission and the Member States shall ensure coordination of their respective assistance programmes with the aim of increasing effectiveness and efficiency in the delivery of assistance in line with the established guidelines for strengthening operational coordination in the field of external assistance, and for the harmonisation of policies and procedures. Coordination shall involve regular consultations and frequent exchanges of relevant information during the different phases of the assistance cycle, in particular at field level, and shall constitute a key step in the programming processes of the Member States and the Community.

4. The Commission shall, in liaison with the Member States, take the necessary steps to ensure proper coordination and cooperation with multilateral and regional organisations and entities, such as international financial institutions, United Nations agencies, funds and programmes, and non-European Union donors.

## TITLE II

### PROGRAMMING AND ALLOCATION OF FUNDS

#### Article 6

### Type of programmes

1. Community assistance under this Regulation shall be implemented through:

- (a) country, multi-country and cross-border strategy papers and multi-annual indicative programmes referred to in Article 7, covering:
  - (i) country or multi-country programmes, which deal with assistance to one partner country or address regional and sub-regional cooperation between two or more partner countries, in which Member States may participate;
  - (ii) cross-border cooperation programmes, which deal with cooperation between one or more Member States and one or more partner countries, taking place in regions adjacent to their shared part of the external border of the Community;
- (b) joint operational programmes for cross-border cooperation referred to in Article 9, annual action programmes referred to in Article 12 and special measures referred to in Article 13.

2. Multi-country programmes may include trans-regional cooperation measures. For the purposes of this Regulation, trans-regional cooperation shall mean cooperation between Member States and partner countries, addressing common challenges, intended for their common benefit, and taking place anywhere in the territory of the Member States and of partner countries.

#### Article 7

### Programming and allocation of funds

1. For country or multi-country programmes, strategy papers shall be adopted in accordance with the procedure referred to in Article 26(2). Strategy papers shall reflect the policy framework and the action plans referred to in Article 3 and be consistent with the principles and modalities laid down in Articles 4 and 5. Strategy papers shall be established for a period compatible with the priorities set in the policy framework and shall contain multi-annual indicative programmes including indicative multi-annual financial allocations and priority objectives for each country or region consistent with those listed in Article 2(2). They shall be reviewed at mid-term or whenever necessary and may be revised in accordance with the procedure referred to in Article 26(2).

2. In establishing country or multi-country programmes, the Commission shall determine the allocations for each programme, using transparent and objective criteria and taking into account the specific characteristics and needs of the country or the region concerned, the level of ambition of the European

Union's partnership with a given country, progress towards implementing agreed objectives, including on governance and on reform, and the capacity of managing and absorbing Community assistance.

3. For the sole purpose of cross-border cooperation, in order to establish the list of joint operational programmes referred to in Article 9(1), the indicative multi-annual allocations and the territorial units eligible to participate in each programme, one or, if necessary, more strategy papers shall be adopted in accordance with the procedure referred to in Article 26(2). Such strategy papers shall be drawn up taking into account the principles and modalities laid down in Articles 4 and 5 and shall, in principle, cover a period of up to seven years from 1 January 2007 to 31 December 2013.

4. The Commission shall determine the allocation of funds to the cross-border cooperation programmes, taking into account objective criteria, such as the population of the eligible areas and other factors affecting the intensity of cooperation, including the specific characteristics of the border areas and the capacity for managing and absorbing Community assistance.

5. The European Regional Development Fund (ERDF) shall contribute to cross-border cooperation programmes established and implemented under the provisions of this Regulation. The amount of the contribution from the ERDF for borders with partner countries is set out in the relevant provisions of 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 <sup>(1)</sup>.

6. In the event of crises or threats to democracy, the rule of law, human rights and fundamental freedoms, or of natural or man-made disasters, an emergency procedure may be used to conduct an ad hoc review of strategy papers. This review shall ensure coherence between Community assistance provided under this Regulation and assistance provided under other Community financial instruments, including Regulation (EC, Euratom) <sup>(2)</sup> of the European Parliament and of ... the Council of establishing an Instrument for Stability.

### TITLE III

## CROSS-BORDER COOPERATION

### Article 8

#### Geographical eligibility

1. The cross-border cooperation programmes referred to in Article 6(1)(a)(ii) may cover all of the following border regions:

- (a) all territorial units corresponding to NUTS level 3 or equivalent along the land borders between Member States and partner countries;
- (b) all territorial units corresponding to NUTS level 3 or equivalent along sea crossings of significant importance;

- (c) all coastal territorial units corresponding to NUTS level 2 or equivalent facing a sea basin common to Member States and partner countries.

2. In order to ensure the continuation of existing cooperation and in other justified cases, territorial units adjoining those referred to in paragraph 1 may be allowed to participate in cross-border cooperation programmes under the conditions laid down in the strategy papers referred to in Article 7(3).

3. When programmes are established pursuant to paragraph (1)(b), the Commission may, in agreement with the partners, propose that participation in cooperation be extended to the whole NUTS level 2 territorial unit in whose area the NUTS level 3 territorial unit is located.

4. The list of sea crossings of significant importance shall be defined by the Commission in the strategy papers referred to in Article 7(3) on the basis of distance and other relevant geographical and economic criteria.

### Article 9

#### Programming

1. Cross-border cooperation under this Regulation shall be carried out in the framework of multi-annual programmes covering cooperation for a border or a group of borders and comprising multi-annual measures which pursue a consistent set of priorities and which may be implemented with the support of Community assistance (hereinafter joint operational programmes). The joint operational programmes shall be based on the strategy papers referred to in Article 7(3).

2. Joint operational programmes for land borders and sea crossings of significant importance shall be established for each border at the appropriate territorial level and include eligible territorial units belonging to one or more Member States and one or more partner countries.

3. Joint operational programmes for sea basins shall be multilateral and include eligible territorial units facing a common sea basin belonging to several participating countries, including at least one Member State and one partner country, taking into account the institutional systems and the principle of partnership. They may include bilateral activities supporting cooperation between one Member State and one partner country. These programmes shall be closely coordinated with trans-national cooperation programmes having a partially overlapping geographical coverage and having been established in the European Union pursuant to Regulation (EC) No 1083/2006.

4. Joint operational programmes shall be established by the Member States and partner countries concerned at the appropriate territorial level, in accordance with their institutional system and taking into account the principle of partnership

<sup>(1)</sup> OJ L 210, 31.7.2006, p. 25.

<sup>(2)</sup> Not yet published in the Official Journal.

referred to in Article 4. They shall normally cover a period of seven years running from 1 January 2007 to 31 December 2013.

5. Countries, other than the participating countries, which face a common sea basin where a joint operational programme is being established may be associated with that joint operational programme and benefit from Community assistance under the conditions determined in the implementing rules referred to in Article 11.

6. Within one year of the approval of the strategy papers referred to in Article 7(3), the participating countries shall jointly submit proposals for joint operational programmes to the Commission. The Commission shall adopt each joint operational programme after assessing its consistency with this Regulation and the implementing rules.

7. Joint operational programmes may be revised at the initiative of the participating countries, participating border regions or the Commission to take into account changes in cooperation priorities, socio-economic developments, the results observed from implementation of the measures concerned and from the monitoring and evaluation process, and the need to adjust the amounts of aid available and reallocate resources.

8. Following the adoption of the joint operational programmes, the Commission shall conclude a financing agreement with the partner countries in accordance with the relevant provisions of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup>. The financing agreement shall include the legal provisions necessary for the implementation of the joint operational programme and should also be signed by the joint managing authority referred to in Article 10.

9. Participating countries shall, taking into account the principle of partnership, jointly select those actions consistent with the priorities and measures of the joint operational programme that will receive Community assistance.

10. In specific and duly justified cases, where:

- (a) a joint operational programme cannot be established owing to problems arising in relations between participating countries or between the European Union and a partner country,
- (b) by 30 June 2010, at the latest, the participating countries have not yet submitted to the Commission a joint operational programme,
- (c) the partner country does not sign the financing agreement by the end of the year following the adoption of the programme,
- (d) the joint operational programme cannot be implemented owing to problems arising in relations between participating countries,

the Commission, following consultations with the Member State (s) concerned, shall take the necessary steps to allow the Member State concerned to use the ERDF contribution to the programme pursuant to Regulation (EC) No 1083/2006.

#### Article 10

### Management of programmes

1. Joint operational programmes shall, in principle, be implemented through shared management by a joint managing authority located in a Member State. The joint managing authority may be assisted by a joint technical secretariat.

2. The participating countries may propose to the Commission that the joint managing authority should be located in a partner country, provided that the designated body is in a position to apply in full the criteria laid down in the relevant provisions of Regulation (EC, Euratom) No 1605/2002.

3. For the purpose of this Regulation 'joint managing authority' shall mean any public or private authority or body, including the state itself, at national, regional or local level, designated jointly by the Member State or States and the partner country or countries covered by a joint operational programme, having the financial and administrative capacity to manage Community assistance and having the legal capacity to conclude the agreements necessary for the purpose of this Regulation.

4. The joint managing authority shall be responsible for managing and implementing the joint operational programme in accordance with the principle of sound technical and financial management, and for ensuring the legality and regularity of its operations. To this end, it shall put in place appropriate management, control and accounting systems and standards.

5. The management and control system of a joint operational programme shall provide for proper separation of the management, certification and audit functions, either through a proper segregation of duties within the managing authority or through the designation of separate bodies for certification and audit.

6. In order to allow the joint operational programmes to prepare adequately for implementation, after the adoption of the joint operational programme and before the signature of the financing agreement, the Commission may allow the joint managing authority to use part of the programme budget to start financing programme activities such as the incurring of operational costs of the managing authority, technical assistance and other preparatory actions. The detailed modalities of such a preparatory phase shall be included in the implementing rules referred to in Article 11.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.



*Article 11***Implementing rules**

1. Implementing rules laying down specific provisions for the implementation of this Title shall be adopted in accordance with the procedure referred to in Article 26(2).
2. Matters covered by the implementing rules shall include issues such as the rate of cofinancing, preparation of joint operational programmes, the designation and functions of the joint authorities, the role and function of the monitoring and selection committees and of the joint secretariat, eligibility of expenditure, joint project selection, the preparatory phase, technical and financial management of Community assistance, financial control and audit, monitoring and evaluation, visibility and information activities for potential beneficiaries.

## TITLE IV

**IMPLEMENTATION***Article 12***Adoption of action programmes**

1. Action programmes, drawn up on the basis of the strategy papers referred to in Article 7(1), shall be adopted in accordance with the procedure referred to in Article 26(2), normally on an annual basis.

Exceptionally, for instance where an action programme has not yet been adopted, the Commission may, on the basis of the strategy papers and multi-annual indicative programmes referred to in Article 7, adopt measures not provided for in an action programme under the same rules and procedures as apply to action programmes.

2. Action programmes shall specify the objectives pursued, the fields of intervention, the expected results, the management procedures and the total amount of financing planned. They shall take into account the lessons learned from past implementation of Community assistance. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. They shall include a definition of the type of performance indicators that shall have to be monitored when implementing the measures financed under the programmes.

3. For cross-border cooperation, the Commission shall adopt joint programmes in accordance with the procedures referred to in Article 9.

4. The Commission shall present action programmes and joint cross-border cooperation programmes to the European Parliament and the Member States for their information within one month of their adoption.

*Article 13***Adoption of special measures not provided for in the strategy papers or multi-annual indicative programmes**

1. In the event of unforeseen and duly justified needs or circumstances, the Commission shall adopt special measures not provided for in the strategy papers or multi-annual indicative programmes (hereinafter special measures).

Special measures may also be used to fund activities to ease the transition from emergency aid to long-term development activities, including activities intended to ensure that the public is better prepared to deal with recurring crises.

2. Where the cost of such measures exceeds EUR 10 000 000, the Commission shall adopt them in accordance with the procedure referred to in Article 26(2).

The procedure referred to in Article 26(2) need not be used for amendments to special measures such as those making technical adjustments, extending the implementation period, reallocating appropriations within the forecast budget, or increasing the size of the budget by less than 20 % of the initial budget, provided these amendments do not affect the initial objectives set out in the Commission decision.

3. Special measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures used and the total amount of financing planned. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. They shall include a definition of the type of performance indicators that will have to be monitored when implementing the special measures.

4. The Commission shall send special measures the value of which does not exceed EUR 10 000 000 to the European Parliament and the Member States for their information within one month of adopting its decision.

*Article 14***Eligibility**

1. The following shall be eligible for funding under this Regulation for the purposes of implementing action programmes, joint cross-border cooperation programmes and special measures:

- (a) partner countries and regions and their institutions;
- (b) decentralised bodies in the partner countries, such as regions, departments, provinces and municipalities;
- (c) joint bodies set up by the partner countries and regions and the Community;

- (d) international organisations, including regional organisations, UN bodies, departments and missions, international financial institutions and development banks, in so far as they contribute to the objectives of this Regulation;
- (e) Community institutions and bodies, but only for the purposes of implementing support measures of the type referred to in Article 16;
- (f) European Union agencies;
- (g) the following entities and bodies of the Member States, partner countries and regions and any other third country complying with the rules on access to the Community's external assistance referred to in Article 21, in so far as they contribute to the objectives of this Regulation:
  - (i) public or parastatal bodies, local authorities or administrations and consortia thereof;
  - (ii) companies, firms and other private organisations and businesses;
  - (iii) financial institutions that grant, promote and finance private investment in partner countries and regions;
  - (iv) non-state actors as defined in (h);
  - (v) natural persons;
- (h) the following non-state actors:
  - (i) non-governmental organisations;
  - (ii) organisations representing national and/or ethnic minorities;
  - (iii) local citizens' groups and traders' associations;
  - (iv) cooperatives, trade unions, organisations representing economic and social interests;
  - (v) local organisations (including networks) involved in decentralised regional cooperation and integration;
  - (vi) consumer organisations, women's and youth organisations, teaching, cultural research and scientific organisations;
  - (vii) universities;
  - (viii) churches and religious associations and communities;
  - (ix) the media;
  - (x) cross-border associations, non-governmental associations and independent foundations.

- 2. When essential to achieve the objectives of this Regulation, Community assistance may be granted to bodies or actors which are not explicitly referred to in this Article.

#### *Article 15*

#### **Types of measures**

- 1. Community assistance shall be used to finance programmes, projects and any type of measure contributing to the objectives of this Regulation.
- 2. Community assistance may also be used:
  - (a) to finance technical assistance and targeted administrative measures, including those cooperation measures involving public-sector experts dispatched from the Member States and their regional and local authorities involved in the programme;
  - (b) to finance investments and investment-related activities;
  - (c) for contributions to the EIB or other financial intermediaries, in accordance with Article 23, for loan financing, equity investments, guarantee funds or investment funds;
  - (d) for debt relief programmes in exceptional cases, under an internationally agreed debt relief programme;
  - (e) for sectoral or general budget support if the partner country's management of public spending is sufficiently transparent, reliable and effective, and where it has put in place properly formulated sectoral or macroeconomic policies approved by its principal donors, including, where relevant, the international financial institutions;
  - (f) to provide interest-rate subsidies, in particular for environmental loans;
  - (g) to provide insurance against non-commercial risks;
  - (h) to contribute to a fund established by the Community, its Member States, international and regional organisations, other donors or partner countries;
  - (i) to contribute to the capital of international financial institutions or the regional development banks;
  - (j) to finance the costs necessary for the effective administration and supervision of projects and programmes by the countries benefiting from Community assistance;
  - (k) to finance microprojects;
  - (l) for food security measures.

3. In principle, Community assistance shall not be used to finance taxes, customs duties and other fiscal charges.

#### Article 16

##### Support measures

1. Community financing may also cover expenditure associated with the preparation, follow-up, monitoring, auditing and evaluation activities directly necessary for the implementation of this Regulation and for the achievement of its objectives, e.g. studies, meetings, information, awareness-raising, publication and training activities, including training and educational measures for partners enabling them to take part in the various stages of the programme, expenditure associated with computer networks for the exchange of information and any other administrative or technical assistance expenditure that the Commission may incur for the management of the programme. It shall also cover expenditure at Commission Delegations on the administrative support needed to manage operations financed under this Regulation.

2. These support measures are not necessarily covered by multi-annual programming and may therefore be financed outside the scope of strategy papers and multi-annual indicative programmes. However, they may also be financed under multi-annual indicative programmes. The Commission shall adopt support measures not covered by multi-annual indicative programmes in accordance with Article 13.

#### Article 17

##### Co-financing

1. Measures financed under this Regulation shall be eligible for cofinancing from the following, *inter alia*:

- (a) Member States, their regional and local authorities and their public and parastatal agencies;
- (b) EEA countries, Switzerland and other donor countries, and in particular their public and parastatal agencies;
- (c) international organisations, including regional organisations, and in particular international and regional financial institutions;
- (d) companies, firms, other private organisations and businesses, and other non-state actors;
- (e) partner countries and regions in receipt of funding.

2. In the case of parallel cofinancing, the project or programme is split into a number of clearly identifiable sub-projects which are each financed by the different partners providing cofinancing in such a way that the end-use of the financing can always be identified. In the case of joint cofinancing, the total cost of the project or programme is shared between the partners providing the cofinancing, and resources are pooled in such a way that it is not possible to identify the source of funding for any given activity undertaken as part of the project or programme.

3. In the case of joint cofinancing, the Commission may receive and manage funds on behalf of the bodies referred to in paragraph 1(a), (b) and (c) for the purpose of implementing joint measures. Such funds shall be treated as assigned revenue, in accordance with Article 18 of Regulation (EC, Euratom) No 1605/2002.

#### Article 18

##### Management procedures

1. The Commission shall implement operations under this Regulation in accordance with Regulation (EC, Euratom) No 1605/2002.

2. The Commission may entrust tasks of public authority, and in particular budget implementation tasks, to the bodies indicated in Article 54(2)(c) of Regulation (EC, Euratom) No 1605/2002 if they are of recognised international standing, comply with internationally recognised systems of management and control and are supervised by a public authority.

3. The Commission may conclude framework agreements with partner countries which shall provide for all measures necessary to ensure the effective implementation of Community assistance and protection of the Community's financial interests.

4. In the case of decentralised management, the Commission may decide to use the procurement or grant procedures of the beneficiary partner country or region, provided that:

- (a) the procedures of the beneficiary partner country or region satisfy the principles of transparency, proportionality, equal treatment and non-discrimination and prevent any conflict of interests;
- (b) the beneficiary partner country or region undertakes to check regularly that the operations financed by the Community budget have been properly implemented, to take appropriate measures to prevent irregularities and fraud, and, if necessary, to take legal action to recover unduly paid funds.

#### Article 19

##### Budget commitments

1. Budget commitments shall be made on the basis of decisions taken by the Commission in accordance with Articles 9(6), 12(1), 13(1) and 16(2).

2. Budget commitments for measures extending over a number of financial years may be split into annual instalments, spread over a number of years.

3. Community financing may take one of the following legal forms, *inter alia*: financing agreements, grant contracts, procurement contracts, employment contracts.

*Article 20***Protecting the Community's financial interests**

1. Any agreements resulting from this Regulation shall contain provisions ensuring the protection of the Community's financial interests, in particular with respect to irregularities, fraud, corruption and any other illegal activity, in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests <sup>(1)</sup>, and (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 <sup>(2)</sup> and 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) <sup>(3)</sup>.
2. Agreements shall expressly entitle the Commission and the Court of Auditors to perform audits, including document audits or an on-the-spot audit of any contractor or subcontractor who has received Community funds. They shall also expressly authorise the Commission to carry out on-the-spot checks and inspections, as provided for in Regulation (Euratom, EC) No 2185/96.
3. All contracts resulting from the implementation of Community assistance shall ensure the rights of the Commission and the Court of Auditors under paragraph 2 during and after the performance of the contracts.

*Article 21***Participation in tenders and contracts**

1. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural persons who are nationals of, and legal persons established in, a Member State of the Community, a country that is a beneficiary of this Regulation, a country that is a beneficiary of an Instrument for Pre-Accession Assistance set up by Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) <sup>(4)</sup> or a Member State of the EEA.
2. The Commission may, in duly substantiated cases, authorise the participation of natural persons who are nationals of, and legal persons established in, a country having traditional economic, trade or geographical links with neighbouring countries, and the use of supplies and materials of different origin.
3. Participation in the award of procurement or grant contracts financed under this Regulation shall also be open to all natural persons who are nationals of, or legal persons established in, any country other than those referred to in paragraph 1, whenever reciprocal access to their external assistance has been established. Reciprocal access shall be granted whenever a country grants eligibility on equal terms to the Member States and to the recipient country concerned.

Reciprocal access to the Community's external assistance shall be established by means of a specific decision concerning a given country or a given regional group of countries. Such a decision shall be adopted by the Commission in accordance with the procedure referred to in Article 26(2) and shall be in force for a minimum period of one year.

The granting of reciprocal access to the Community's external assistance shall be based on a comparison between the Community and other donors and shall proceed at sectoral or entire country level, whether it be a donor or a recipient country. The decision to grant this reciprocity to a donor country shall be based on the transparency, consistency and proportionality of the aid provided by that donor, including its qualitative and quantitative nature. The beneficiary countries shall be consulted in the process described in this paragraph.

4. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to international organisations.
5. Experts proposed in the context of procedures for the award of contracts need not comply with the nationality rules set out above.
6. All supplies and materials purchased under contracts financed under this Regulation shall originate in the Community or a country eligible under this Article. The term 'origin' for the purpose of this Regulation is defined in the relevant Community legislation on rules of origin for customs purposes.
7. The Commission may, in duly substantiated exceptional cases, authorise the participation of natural persons who are nationals of, and legal persons established in, countries other than those referred to in paragraphs 1, 2 and 3, or the purchase of supplies and materials of different origin from that set out in paragraph 6. Derogations may be justified on the basis of the unavailability of products and services in the markets of the countries concerned, for reasons of extreme urgency, or if the eligibility rules were to make the realisation of a project, a programme or an action impossible or exceedingly difficult.
8. Whenever Community funding covers an operation implemented through an international organisation, participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to paragraphs 1, 2 and 3 as well as to all natural or legal persons who are eligible pursuant to the rules of that organisation, care being taken to ensure that equal treatment is afforded to all donors. The same rules shall apply in respect of supplies, materials and experts.

Whenever Community funding covers an operation co-financed with a Member State, with a third country, subject to reciprocity as defined in paragraph 3, or with a regional organisation,

<sup>(1)</sup> OJ L 312, 23.12.1995, p. 1.

<sup>(2)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(3)</sup> OJ L 136, 31.5.1999, p. 1.

<sup>(4)</sup> OJ L 210, 31.7.2006, p. 82.



participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to paragraphs 1, 2 and 3 as well as to all natural or legal persons who are eligible under the rules of such Member State, third country or regional organisation. The same rules shall apply in respect of supplies, materials and experts.

9. Where Community assistance under this Regulation is managed by a joint managing authority, as referred to in Article 10, the procurement rules shall be those laid down in the implementing rules referred to in Article 11.

10. Tenderers who have been awarded contracts under this Regulation shall respect core labour standards as defined in the relevant International Labour Organisation conventions.

11. Paragraphs 1 to 10 shall be without prejudice to the participation of categories of eligible organisations by nature or by localisation in regard to the objectives of the action.

#### Article 22

### Prefinancing

Interest generated by prefinancing payments to beneficiaries shall be deducted from the final payment.

#### Article 23

### Funds made available to the EIB or other financial intermediaries

1. The funds referred to in Article 15(2)(c) shall be managed by financial intermediaries, by the EIB or any other bank or organisation capable of managing them.

2. The Commission shall adopt implementing provisions for paragraph 1 on a case-by-case basis to cover risk-sharing, the remuneration of the intermediary responsible for implementation, the use and recovery of profits on funds, and the closure of the operation.

#### Article 24

### Evaluation

1. The Commission shall regularly evaluate the results of geographical and cross-border policies and programmes and of sectoral policies and the effectiveness of programming in order to ascertain whether the objectives have been met and enable it to formulate recommendations with a view to improving future operations.

2. The Commission shall send significant evaluation reports to the committee referred to in Article 26 for discussion. These reports and discussions shall feed back into programme design and resource allocation.

#### TITLE V

### FINAL PROVISIONS

#### Article 25

### Annual report

The Commission shall examine the progress made on implementing the measures taken under this Regulation and shall submit to the European Parliament and the Council an annual report on the implementation of Community assistance. This report shall also be submitted to the European Economic and Social Committee and to the Committee of the Regions. It shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, and the implementation of budget commitments and payments broken down by country, region and cooperation sector.

#### Article 26

### Committee

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 30 days.

3. The committee shall adopt its rules of procedure.
4. An observer from the EIB shall take part in the committee's proceedings with regard to questions concerning the EIB.
5. In order to facilitate the dialogue with the European Parliament, the Commission shall regularly inform the European Parliament of the committee proceedings and provide the relevant documents including agenda, draft measures and summary records of the meetings in accordance with Article 7 (3) of Decision 1999/468/EC.

#### Article 27

### Participation by a third country not listed in the Annex

1. To ensure the coherence and effectiveness of Community assistance, the Commission may decide, when adopting action programmes of the type referred to in Article 12 or the special measures referred to in Article 13, that countries, territories and regions eligible for assistance under other Community external assistance instruments and the European Development Fund are eligible for measures under this Regulation where the project or programme implemented is of a global, regional or cross-border nature.
2. Provision may be made for this method of financing possibility in the strategy papers referred to in Article 7.



3. The provisions of Article 14 concerning eligibility and the provisions of Article 21 concerning participation in procurement procedures shall be adapted to allow the countries, territories or regions concerned to take part.

4. In the case of programmes financed under the provisions of different Community external assistance instruments, participation in procurement procedures may be open to all natural and legal persons of the countries eligible under the different instruments.

#### Article 28

##### **Suspension of Community assistance**

1. Without prejudice to the provisions on the suspension of aid in partnership and cooperation agreements and association agreements with partner countries and regions, where a partner country fails to observe the principles referred to in Article 1, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps in respect of any Community assistance granted to the partner country under this Regulation.

2. In such cases, Community assistance shall primarily be used to support non-state actors for measures aimed at promoting human rights and fundamental freedoms and supporting the democratisation process in partner countries.

#### Article 29

##### **Financial envelope**

1. The financial envelope for implementation of this Regulation over the period 2007 to 2013 shall be EUR 11 181 000 000, broken down as follows:

- (a) a minimum of 95 % of the financial envelope shall be allocated to the country and multi-country programmes referred to in Article 6(1)(a)(i);

- (b) up to 5 % of the financial envelope shall be allocated to the cross-border cooperation programmes referred to in Article 6(1)(a)(ii).

2. Annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

#### Article 30

##### **Review**

The Commission shall submit to the European Parliament and the Council by 31 December 2010 a report evaluating the implementation of this Regulation in the first three years with, if appropriate, a legislative proposal introducing the necessary modifications to it, including to the financial breakdown referred to in Article 29(1).

#### Article 31

##### **Repeal**

1. As from 1 January 2007, Regulations (EEC) No 1762/92, (EC) No 1734/94 and (EC) No 1488/96 shall be repealed.

2. The repealed Regulations shall continue to apply for legal acts and commitments of pre-2007 budget years.

#### Article 32

##### **Entry into force**

This Regulation shall enter into force 20 days after its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007 to 31 December 2013.

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

Done at Strasbourg, 24 October 2006.

*For the European Parliament*

*The President*

J. BORRELL FONTELLES

*For the Council*

*The President*

P. LEHTOMÄKI

## ANNEX

**Partner countries referred to in Article 1**

Algeria

Armenia

Azerbaijan

Belarus

Egypt

Georgia

Israel

Jordan

Lebanon

Libya

Moldova

Morocco

Palestinian Authority of the West Bank and Gaza Strip

Russian Federation

Syria

Tunisia

Ukraine

---

**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)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 156, Article 157(3) and Article 175 (1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) The Lisbon European Council of 23 and 24 March 2000 set the objective of making the European Union the most competitive and dynamic knowledge-based economy in the world. It emphasised the importance of creating a climate favourable to small and medium-sized enterprises (SMEs), and considered it important to disseminate best practice and ensure greater convergence between Member States. The Gothenburg European Council of 15 and 16 June 2001 agreed the Union's Strategy for Sustainable Development to ensure that economic growth, social inclusion and environmental protection go hand in hand. Enterprises' production patterns play an important role in sustainable development.
- (2) In order to contribute to the enhancement of competitiveness and innovation capacity in the Community, the advancement of the knowledge society, and sustainable development based on balanced economic growth, a Competitiveness and Innovation Framework Programme (hereinafter referred to as the Framework Programme) should be established.
- (3) This is in line with the Commission Communication of 2 February 2005 to the Spring European Council entitled 'Working together for growth and jobs — a new start for the Lisbon Strategy', which calls for action to deliver growth and competitiveness and to make Europe a more attractive place in which to invest and work, recalling that entrepreneurial initiative must be stimulated, sufficient risk capital attracted to start up businesses, and a strong European industrial base sustained whilst innovation,

notably eco-innovation, the uptake of information and communication technologies (ICT), and the sustainable use of resources should be promoted. Whilst competitiveness is to a large measure driven by vibrant businesses operating in open and competitive markets and supported by the right framework conditions, in particular by a regulatory framework conducive to innovation, Community financing has a role to play in leveraging support and providing complementary funding in order to tackle situations of market failure.

- (4) The European Charter for Small Enterprises (hereinafter referred to as the Charter), endorsed by the European Council in Santa Maria de Feira of 19 and 20 June 2000, describes small enterprises as the backbone of the European economy. The specific nature, requirements and expectations of small and craft enterprises should be taken into account more effectively in national and European policies. Community measures to promote SMEs, such as the Commission Communication of 10 November 2005 entitled 'Implementing the Community Lisbon Programme — Modern SME Policy for Growth and Employment', should take account of the objectives set out in the Charter, and the Framework Programme should be used as a means of progressing towards the objectives set by it.
- (5) The Framework Programme should particularly address SMEs, as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises <sup>(4)</sup>. It should pay particular attention to the specific characteristics and requirements of 'gazelles' as well as of micro and craft enterprises, and specific target groups, including female entrepreneurs.
- (6) The Framework Programme should bring together those specific Community measures in the field of entrepreneurship, SMEs, industrial competitiveness, innovation, ICT, environmental technologies and intelligent energy that, until now, have been regulated by Council Decision 96/413/EC of 25 June 1996 on the implementation of a Community action programme to strengthen the competitiveness of European industry <sup>(5)</sup>, Decision No 1336/97/EC of the European Parliament and of the Council of 17 June 1997 on a series of guidelines for trans-European telecommunications networks <sup>(6)</sup>, Regulation (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE) <sup>(7)</sup>, Council Decision

<sup>(1)</sup> OJ C 65, 17.3.2006, p. 22.

<sup>(2)</sup> OJ C 115, 16.5.2006, p. 17.

<sup>(3)</sup> Opinion of the European Parliament of 1 June 2006 (not yet published in the Official Journal) and Council Decision of 12 October 2006.

<sup>(4)</sup> OJ L 124, 20.5.2003, p. 36.

<sup>(5)</sup> OJ L 167, 6.7.1996, p. 55.

<sup>(6)</sup> OJ L 183, 11.7.1997, p. 12. Decision as amended by Decision No 1376/2002/EC (OJ L 200, 30.7.2002, p. 1).

<sup>(7)</sup> OJ L 192, 28.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 1682/2004 (OJ L 308, 5.10.2004, p. 1).

2000/819/EC of 20 December 2000 on a multiannual programme for enterprise and entrepreneurship, and in particular for small- and medium-sized enterprises (SMEs) (2001-2005) <sup>(1)</sup>, Council Decision 2001/48/EC of 22 December 2000 adopting a multiannual Community programme to stimulate the development and use of European digital content on the global networks and to promote linguistic diversity in the information society <sup>(2)</sup>, Decision No 1230/2003/EC of the European Parliament and of the Council of 26 June 2003 adopting a multiannual programme for action in the field of energy: 'Intelligent Energy — Europe' (2003-2006) <sup>(3)</sup> to support sustainable development in the energy context and Decision No 2256/2003/EC of the European Parliament and of the Council of 17 November 2003 adopting a multiannual programme (2003-2005) for the monitoring of the eEurope 2005 action plan, dissemination of good practices and the improvement of network and information security (Modinis) <sup>(4)</sup>.

- (7) The Framework Programme should establish a set of common objectives, the total financial envelope for pursuing those objectives, different types of implementing measures, and the arrangements for monitoring and evaluation and for the protection of the Communities' financial interests.
- (8) In line with the Commission Communication of 11 March 2003 entitled 'Innovation policy: updating the Union's approach in the context of the Lisbon strategy' and in the light of the OECD Oslo Manual, innovation is understood as comprising the renewal and enlargement of a range of products and services and their associated markets; the establishment of new methods of design, production, supply and distribution; the introduction of changes in management, work organisation, and working conditions and skills of the workforce; and covers technological, non-technological and organisational innovation.
- (9) The Framework Programme should exclude research and technological development activities carried out in accordance with Article 166 of the Treaty. It should be complementary to the Community's Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) <sup>(5)</sup> (hereinafter referred to as the Seventh Framework RTD Programme), by dealing with innovation, which includes non-technological as well as technological innovation, that has moved beyond the final demonstration phase and is ready for market replication (testing of innovations for application in markets). It should be ensured that there is no financing gap between research development and application (technology-transfer activities including pre-seed phase). Therefore, funding the transfer of research results to commercialisation is a task to be carried out in close coordination with
- the Seventh Framework RTD Programme and other relevant research programmes.
- (10) The Framework Programme should also cover the market replication of existing technologies that are to be utilised in a new and innovative way. In certain circumstances, pilot projects for technological demonstration will be covered by both the Framework Programme and the Seventh Framework RTD Programme. This will occur only when certain technological solutions (for example technical standards in the ICT field) have to be validated during the market replication phase of an otherwise already demonstrated technology.
- (11) The Framework Programme should complement the Structural Funds and other relevant Community programmes, whilst acknowledging that each instrument should work according to its own specific procedures. Thus, the same eligible costs should not receive double funding.
- (12) The common objectives of the Framework Programme should be pursued by specific programmes entitled 'the Entrepreneurship and Innovation Programme', 'the ICT Policy Support Programme' and 'the Intelligent Energy — Europe Programme'.
- (13) The principles of transparency and equal gender opportunity should be taken into account in all the programmes and activities covered by the Framework Programme.
- (14) This Decision lays down, for the entire duration of the Framework Programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(6)</sup>, for the budgetary authority during the annual budgetary procedure.
- (15) A specific and indicative budget should be reserved for each specific programme.
- (16) In order to ensure that financing be limited to tackling market failures, and with a view to avoiding market distortions, funding from the Framework Programme should comply with the Community State aid rules and the accompanying instruments and the Community definition of SMEs in force.
- (17) The Agreement on the European Economic Area (hereinafter referred to as the EEA Agreement) and Protocols to Association Agreements provide for the participation of the countries concerned in Community programmes. Participation by other third countries should be possible when Agreements and procedures so allow.

<sup>(1)</sup> OJ L 333, 29.12.2000, p. 84. Decision as last amended by Decision No 1776/2005/EC of the European Parliament and of the Council (OJ L 289, 3.11.2005, p. 14).

<sup>(2)</sup> OJ L 14, 18.1.2001, p. 32.

<sup>(3)</sup> OJ L 176, 15.7.2003, p. 29. Decision as amended by Decision No 787/2004/EC (OJ L 138, 30.4.2004, p. 12).

<sup>(4)</sup> OJ L 336, 23.12.2003, p. 1. Decision as last amended by Decision No 2113/2005/EC (OJ L 344, 27.12.2005, p. 34).

<sup>(5)</sup> Not yet published in the Official Journal.

<sup>(6)</sup> OJ C 139, 14.6.2006, p. 1.

- (18) The Framework Programme and the specific programmes should be regularly monitored and evaluated in order to allow for readjustments. Where possible, evaluation reports should examine gender mainstreaming in programme activities.
- (19) Appropriate measures should also be taken to prevent irregularities and fraud and the necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used, in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests <sup>(1)</sup> and (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 <sup>(2)</sup> and 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) <sup>(3)</sup>.
- (20) The growth and competitiveness of enterprises in industrial and service sectors depends on their ability to adjust quickly to change, to exploit their innovative potential and to develop high-quality products. This challenge concerns enterprises of all sizes, but is particularly acute for smaller enterprises. It is therefore appropriate to establish the Entrepreneurship and Innovation Programme.
- (21) The Community can be the catalyst and coordinator of Member States' efforts. It can contribute to, and complement their achievements, in particular by promoting the exchange of national and regional experiences and practices, by defining and disseminating best practices and innovative ideas, and by contributing to the availability of Europe-wide supply of services in support of business and innovation, in particular for SMEs.
- (22) The Commission Communication of 28 January 2004 entitled 'Stimulating Technologies for Sustainable Development: An Environmental Technologies Action Plan for the European Union' calls for Community programmes to support the development and uptake of environmental technologies and calls for the mobilisation of financial instruments to share the risks of investing in environmental technologies.
- (23) To support the creation of a European market for innovative products and services, it is necessary for Member States and the Commission to create attractive conditions for innovative products and services, including through a proactive approach to public procurement in order to help create lead markets, while improving access for SMEs and the quality of public services, and through better regulation and standards based on early anticipation of needs. The Commission should provide guidance on the issue of innovation-friendly public procurement.
- (24) With regard to technological innovation, SMEs should be encouraged to become involved in high-technology sectors such as space and security and to develop applications offered by the Galileo satellite positioning system.
- (25) Eco-innovation is any form of innovation aiming at significant and demonstrable progress towards the goal of sustainable development, through reducing impacts on the environment or achieving a more efficient and responsible use of natural resources, including energy. Eco-innovation is a progressive concept and the Framework Programme must therefore remain responsive to changes. The promotion of eco-innovation through the Framework Programme aims to contribute to the implementation of the Environmental Technologies Action Plan.
- (26) Taking into account the activities of the Environment LIFE+ Programme (LIFE+), the Framework Programme should encourage the uptake of environmental technologies through pilot and market replication projects, bridging the gap between the successful demonstration of innovative technologies and the market uptake and by removing the barriers to market penetration, promoting voluntary approaches in fields such as environmental management, and networking relevant actors. It should support eco-innovation by enterprises through projects and co-investment in risk capital funds, but should not double-fund costs receiving funding under LIFE+.
- (27) Market-based Community financial instruments for SMEs complement and add leverage to financial schemes at the national level. They can particularly foster private investment for the creation of new innovative companies and support companies with a high growth potential in their expansion phase to reduce a recognised equity gap. They can improve access by existing SMEs to loan finances for activities that support their competitiveness and growth potential.
- (28) The European Investment Fund (EIF) is the Community's specialised vehicle for providing risk capital and guarantee instruments for SMEs. It pays special attention to supporting microfinance as well as early-stage finance in accordance with market demand and best practice. It contributes to the pursuit of Community objectives, including a knowledge-based society, innovation, growth, employment and the promotion of entrepreneurial spirit. The EIF ensures the required continuity in the management of Community programmes and has gathered extensive experience therein. The operation by the EIF of Community

<sup>(1)</sup> OJ L 312, 23.12.1995, p. 1.

<sup>(2)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(3)</sup> OJ L 136, 31.5.1999, p. 1.



financial instruments for SMEs on behalf of the Commission has therefore been considered a good practice by independent evaluations. The EIF also has the expertise to support emerging actions based on public-private partnerships launched by Member States aiming at attracting high-risk investment streams from the capital markets to the benefit of innovative small businesses.

- (29) Impending changes in the financial environment and new accounting standards make financial institutions more sensitive to risk, lead to a rating culture, and may tighten the credit supply to SMEs, at least during a transitional phase. The Entrepreneurship and Innovation Programme should therefore respond to the changing financing needs of SMEs, including the need for proximity financing and their adaptation to the new financial environment whilst avoiding market distortions. Furthermore, activities should contribute to enhancing the capabilities of financial institutions to assess risk related to innovation, with a view to developing technology-rating and to improving the capabilities of SMEs to make better use of the financing instruments provided by the markets.
- (30) High-quality services in support of business and innovation play an important role in ensuring SMEs' access to information relating to the functioning and opportunities of the internal market for goods and services as well as in the trans-national transfer of innovation, knowledge and technology. They also have a crucial role to play in facilitating SMEs' access to information on Community legislation applying to them and on future legislation for which they can prepare and to which they can adapt in a cost-effective way. Considerable experience and skills have been developed through existing European support networks for businesses, such as the Euro Info Centres and Innovation Relay Centres. External evaluations have stressed that the horizontal role in the delivery of European business support services should be strengthened, including by optimising the cooperation between existing services and help desks with a view to creating a 'one-stop shop' on the basis of a 'no wrong door' commitment. This concerns the dissemination of information on Community programmes and the promotion of the participation of SMEs in those programmes, in particular SMEs' participation in the Seventh Framework RTD Programme. Evaluations have also stressed the importance of facilitating interaction between the Commission and SMEs.
- (31) The Community should equip itself with a sound analytical basis to support policy making in the fields of SMEs, entrepreneurship, innovation and competitiveness in industrial sectors. Such a basis should add value to the information available at the national level in those fields. The Community should provide for the common development of competitiveness strategies for industrial and service sectors, and for the promotion of best practices in relation to an entrepreneurial environment and culture, including skills, corporate social responsibility and equal gender opportunity, and promote through, inter alia, education and continuous training, and from school to higher education, the emergence of young entrepreneurs.
- (32) The Brussels European Council of 20 and 21 March 2003 gave priority to innovation and entrepreneurship and stressed the need for Europe to do more to turn ideas into real added value. It called for further action in order to create the conditions in which business innovates. The linear model of innovation, that assumes that research leads directly to innovation, has proved to be insufficient to explain innovation performance and to design appropriate innovation policy responses. Recognising that enterprises are at the heart of the innovation process, funding to stimulate innovation activities of enterprises and preparing the market-take up of innovation as well as innovation governance and culture should therefore be placed under the Entrepreneurship and Innovation Programme. This should help to ensure that innovation works to promote competitiveness and is carried through into practical application at a business level. The Brussels European Council of 25 and 26 March 2004 added that clean technologies are vital to fully exploit synergies between enterprise and the environment. The promotion of eco-innovation, which includes innovative clean technologies, can help exploit their potential.
- (33) The market for knowledge transfer and absorption is frequently opaque, and both lack of information and failure to make connections create market barriers. Businesses also find it difficult to incorporate technologies which are not part of their traditional field of activity and to gain access to new types of skills. Financial risks can be high for innovation, profitability may be delayed by development hitches and tax may not be neutral between success and failure. Skills needed to exploit opportunities may be in short supply. Institutional or regulatory obstacles can delay or undermine the emergence of new markets and access to them. Bankruptcy laws may create strong disincentives to assume entrepreneurial risk because of fear of failure. In addition, economic circumstances can determine whether innovation takes place or not. The development of a business environment conducive to entrepreneurship, competitiveness and innovation should include the improvement of enterprise- and innovation-related economic and administrative reform, in particular for increased competitiveness, reduction of administrative burdens for SMEs and a better regulatory environment for entrepreneurship, business creation and business transfer, growth and innovation.
- (34) Those barriers to the market penetration of innovation technologies are particularly relevant for environmental technologies. Market prices too often do not completely reflect the environmental costs of products and services. The part of the costs not reflected in market prices is borne

by society as a whole, rather than by the producers of pollution. This market failure, together with the Community interest in preserving resources, preventing pollution and protecting the environment more cost-efficiently, justifies reinforced support for eco-innovation.

- (35) The Community's innovation actions aim to support the development of innovation policy in the Member States and their regions and to facilitate the exploitation of synergies between national, regional and European innovation policy and support activities. The Community is able to facilitate trans-national exchanges, mutual learning and networking and can drive cooperation on innovation policy. Networking among stakeholders is the key to facilitating the flow of knowledge and ideas that are necessary for innovation.
- (36) The Council Resolution endorsed at the Brussels Telecommunications Council of 9 December 2004 provides the basis for the proposal for a new information society initiative to reinforce the contribution of the information society to Europe's performance. In its aforementioned Communication of 2 February 2005, the Commission proposes to focus efforts on 'delivering stronger and lasting growth and creating more and better jobs'. It highlights the uptake of ICT by both the private and public sector as a key element in improving Europe's innovation performance and competitiveness. The ICT Policy Support Programme should therefore be established.
- (37) Actions under the ICT Policy Support Programme should also contribute to the objectives of the i2010 strategy, while taking into consideration other Community programmes in the field of ICT in order to avoid the duplication of efforts.
- (38) ICT provide the backbone for the knowledge economy. They account for around half of the productivity growth in modern economies and provide unique solutions to address key societal challenges. The improvement of public sector and general interest services needs to be carried out in close collaboration with the relevant Community policies, for example, in the fields of public health, education and training, environment, transport and internal market development and competition.
- (39) The deployment and best use of innovative ICT-based solutions should be stimulated, in particular for services in areas of public interest, including the improvement of the quality of life of disadvantaged groups, such as people with disabilities or elderly people. Community support should also facilitate the coordination and the implementation of actions for developing the information society across the Member States.
- (40) The midterm evaluation of the eTEN (Trans European Network for Telecom) Programme recommends using a

demand driven approach for Community intervention to projects supporting trans-European services in areas of public interest.

- (41) The eGovernment and eHealth Communications from the Commission and related Council conclusions called for increased effort in innovation, good practice exchange and interoperability and identified the need for increased synergies between related Community programmes. Interoperability is of great importance to the development of the information society.
- (42) A legislative framework has been defined by Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases <sup>(1)</sup>, Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society <sup>(2)</sup> and Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information <sup>(3)</sup> to deal with the challenges of digital content in the information society.
- (43) Different practices among Member States continue to create technical barriers which impede wide access and re-use of public sector information in the Union.
- (44) Community actions concerning digital content should take account of the Community's multilingual and multicultural specificity.
- (45) Natural resources, the prudent and rational utilisation of which is provided for in Article 174 of the Treaty, include, apart from renewable energy sources, oil, natural gas and solid fuels, which are essential energy sources but are also the main sources of carbon dioxide emissions.
- (46) The Commission's Green Paper entitled 'Towards a European strategy for the security of energy supply' noted that the Union is becoming increasingly dependent on external energy sources and that its dependence could rise to 70 % in 20 to 30 years' time. It therefore stressed the need to balance supply policy against clear action for a demand policy and called for better managed and more environmentally friendly consumption, particularly in the transport and building sectors. It also called for priority to be given the development of new and renewable sources on the energy supply side in order to respond to the challenge of global warming and to achieve the target already established by earlier action plans and resolutions of 12 % energy from renewable energy sources in gross internal consumption by 2010.

<sup>(1)</sup> OJ L 77, 27.3.1996, p. 20.

<sup>(2)</sup> OJ L 167, 22.6.2001, p. 10.

<sup>(3)</sup> OJ L 345, 31.12.2003, p. 90.

- (47) Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market <sup>(1)</sup> requires Member States to set national indicative targets consistent with the Community global indicative target of 12 % of gross national energy consumption by 2010 and in particular with the 22,1 % indicative share of electricity produced from renewable energy sources in total Community electricity consumption by 2010. The Commission Communication of 26 May 2004 entitled 'The share of renewable energy in the EU' warned that the target of a 12 % share of renewable energy in overall energy consumption in the Community in 2010 will not be reached unless considerable additional action is taken.
- (48) Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings <sup>(2)</sup> requires Member States to apply minimum energy performance requirements for new and existing buildings, to ensure the energy certification of buildings and to require the regular inspection of boilers and of air-conditioning systems in buildings.
- (49) Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport <sup>(3)</sup> requires Member States to ensure that a minimum proportion of biofuels and other renewable fuels is placed on their market.
- (50) Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC <sup>(4)</sup> requires Member States to carry out analyses of their potential for high-efficiency cogeneration and to set up support schemes that reflect the national potential identified.
- (51) In order to facilitate the implementation of those Community measures, to achieve greater market penetration for renewable energy sources and to improve energy efficiency, there is a need for specific promotion programmes at Community level to create the conditions for moving towards sustainable energy systems, in particular to support the standardisation of equipment which produces or consumes renewable energy sources, to increase technology deployment and to spread best practices in demand side management. The same applies to the Community measures related to the labelling of energy efficiency of electrical, electronic, office and communications equipment and the standardisation of lighting, heating and air-conditioning equipment. The Intelligent Energy — Europe Programme should therefore be established.
- (52) The Intelligent Energy — Europe Programme should contribute to achieving the general objectives of improving energy diversification and security of supply, and enhancing the competitiveness of companies in the Union, in particular SMEs, while protecting the environment and meeting international commitments in this area. Energy efficiency improvement measures in that specific programme should also focus on technological improvements in production processes and propose efficiency gains through improved transport logistics.
- (53) Achieving the full impact of the established strategy for sustainable energy requires not only continuity with Community support to policy development and implementation and removal of existing non-technological barriers through enhanced promotion campaigns, but, above all, support to accelerate investment and stimulate the market uptake of innovative technologies across the Community.
- (54) Alongside environmental advantages, renewable energy sources and energy efficiency are among the fastest growing industries in the Community, creating new and innovative jobs. The European renewable energy industry leads the world in the development of technologies for renewable energy electricity generation. Such technologies benefit economic and social cohesion and avoid the dissipation of resources.
- (55) Decision No 1230/2003/EC will expire on 31 December 2006.
- (56) Three of the four specific fields of the programme established by Decision No 1230/2003/EC should be continued under this Framework Programme: (i) promoting energy efficiency and the rational use of energy resources (SAVE); (ii) promoting new and renewable energy sources (Altener); and (iii) promoting energy efficiency and the use of new and renewable energy sources in transport (STEER).
- (57) The international dimension (Coopener) of the programme established by Decision No 1230/2003/EC should be continued in the framework of the new Community instruments for external assistance as part of a thematic programme on environment and sustainable management of natural resources, including energy. However, there should be a close relationship between the relevant part of the thematic programme and the Intelligent Energy — Europe Programme in order to help SMEs take advantage of the potential markets for intelligent energy which exist outside Europe.

<sup>(1)</sup> OJ L 283, 27.10.2001, p. 33. Directive as amended by the 2003 Act of Accession.

<sup>(2)</sup> OJ L 1, 4.1.2003, p. 65.

<sup>(3)</sup> OJ L 123, 17.5.2003, p. 42.

<sup>(4)</sup> OJ L 52, 21.2.2004, p. 50.

- (58) In accordance with the principles of good governance and better regulation, the Commission has commissioned independent experts to carry out an ex ante evaluation of a renewed multiannual Community programme in the field of energy to succeed the ongoing Intelligent Energy — Europe Programme after 31 December 2006. In their report, the experts concluded that there was a need to ensure the continuity of the Intelligent Energy — Europe Programme after 2006, and to renew it in a more comprehensive and ambitious instrument. That programme should be established also with a view to further improving European strength and excellence in the field of sustainable energy technologies and their application.
- (59) Account should be taken of the need to achieve user-friendliness and administrative simplification in implementing the Framework Programme. The Commission should publish and widely diffuse a user manual establishing a clear, simple and transparent framework of general principles for participation of beneficiaries in the Framework Programme. This should in particular facilitate the participation of SMEs. The user manual should describe the rights and obligations of beneficiaries; financial provisions such as eligible costs and support rates; principles governing administrative rules and procedures, in particular user-friendly applications procedures applying a two-stage application process, where appropriate and on the condition that such a procedure does not extend the time period between evaluation and signing of the contract; the rules for use and dissemination of project results; and principles for the evaluation, selection and award of proposals.
- (60) The Commission may use, on the basis of a cost-benefit analysis, a new or an existing executive agency for the implementation of the Framework Programme, as provided for in 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 <sup>(1)</sup>.
- (61) The Framework Programme should also support reflection on the future structures and needs for European innovation policies.
- (62) Since the objectives of this Decision concerning the enhancement of the Community's competitiveness and innovation cannot be sufficiently achieved by the Member States because of the need for multilateral partnerships, trans-national mobility and Community-wide exchanges of information, and can therefore, by reason of the nature of the actions and measures necessary, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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.
- (63) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>.
- (64) Taking into account the nature of the issues to be dealt with under the specific programmes, the Commission should be assisted by different committees for the implementation of each specific programme. Those committees will meet simultaneously on a periodic basis to enable joint sessions to discuss issues of horizontal or common relevance, as identified by the EIP Management Committee together with the Commission.
- (65) In the interest of improving coherence between elements of the Framework Programme and its effectiveness, a Strategic Advisory Board on Competitiveness and Innovation should advise the Commission.
- (66) Decision No 456/2005/EC of the European Parliament and of the Council of 9 March 2005 establishing a multiannual Community programme to make digital content in Europe more accessible, usable and exploitable <sup>(3)</sup> establishes a multiannual programme, known as the 'eContentplus'. That Decision will expire on 31 December 2008. Measures foreseen to make digital content in Europe more accessible, usable and exploitable should be continued after that date under the ICT Policy Support Programme established by this Decision.
- (67) The measures provided for in Decision 96/413/EC should be integrated into the Entrepreneurship and Innovation Programme. Decision 96/413/EC should therefore be repealed.

HAVE DECIDED AS FOLLOWS:

#### TITLE I

### COMMON PROVISIONS

#### CHAPTER I

### *The Competitiveness and Innovation Framework Programme*

#### *Article 1*

#### **Establishment**

1. A framework programme for Community action in the field of competitiveness and innovation, paying particular attention to the needs of SMEs and covering the period from 1 January 2007 to 31 December 2013 (hereinafter referred to as the Framework Programme), is hereby established.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

<sup>(3)</sup> OJ L 79, 24.3.2005, p. 1.

<sup>(1)</sup> OJ L 11, 16.1.2003, p. 1.



2. The Framework Programme shall contribute to the competitiveness and innovative capacity of the Community as an advanced knowledge society, with sustainable development based on robust economic growth and a highly competitive social market economy with a high level of protection and improvement of the quality of the environment.

3. The Framework Programme shall not cover research, technological development and demonstration activities carried out in accordance with Article 166 of the Treaty. It shall contribute to closing the gap between research and innovation and promote all forms of innovation.

#### Article 2

##### Objectives

1. The Framework Programme shall have the following objectives:

- (a) to foster the competitiveness of enterprises, in particular of SMEs;
- (b) to promote all forms of innovation including eco-innovation;
- (c) to accelerate the development of a sustainable, competitive, innovative and inclusive information society;
- (d) to promote energy efficiency and new and renewable energy sources in all sectors, including transport.

2. The objectives of the Framework Programme shall be pursued through the implementation of the following specific programmes as established in Title II (hereinafter referred to as the specific programmes):

- (a) the Entrepreneurship and Innovation Programme;
- (b) the Information and Communications Technologies (ICT) Policy Support Programme;
- (c) the Intelligent Energy-Europe Programme.

#### Article 3

##### Budget

1. The financial envelope for the implementing the Framework Programme shall be EUR 3 621 300 000.

2. An indicative budgetary breakdown for the specific programmes is set out in Annex I.

3. The budgetary authority shall authorise the available annual appropriations within the limits of the financial framework.

#### Article 4

##### Participation of third countries

The Framework 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;
- (b) accession countries and 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 Community programmes established in the respective Framework Agreements and Association Council Decisions;
- (c) countries of the Western Balkans, in accordance with the provisions to be determined with those countries following the establishment of Framework Agreements concerning their participation in Community programmes;
- (d) other third countries, when Agreements and procedures so allow.

#### CHAPTER II

##### Implementation of the Framework Programme

#### Article 5

##### Annual work programmes

1. The Commission shall adopt annual work programmes for the specific programmes in accordance with the procedure referred to in Article 46(2), taking into account the need to adjust to future developments, in particular after the interim evaluation.

The Commission shall ensure the implementation of annual work programmes and inform the European Parliament of their preparation and implementation comprehensively and without delay.

2. Amendments to the annual work programmes concerning budgetary allocations of more than EUR 1 million shall be adopted in accordance with the procedure referred to in Article 46(2).

#### Article 6

##### Common implementing measures for the Framework Programme

1. The instruments outlined in Section 2 of Chapter I, Section 2 of Chapter II and Section 2 of Chapter III of Title II shall constitute a common toolbox for the Framework Programme. They may also be used to fulfil the objectives of each specific programme as specified in the relevant annual work programme. A comprehensive list of instruments shall be set out in detail in the user manual referred to in Article 47.



2. The funding granted shall fully comply with Community State aid rules and accompanying instruments. Community rules concerning public access to documents shall apply. The principles of transparency and gender mainstreaming shall be taken into account.

#### Article 7

##### Technical assistance

The financial envelope established under this Decision may also cover necessary expenditure related to preparatory action, monitoring, control, audit and evaluation directly necessary for the effective and efficient implementation of this Decision and for the achievement of its objectives.

Such action may, in particular, include studies, meetings, information activities, publications, expenditure on informatics tools, systems and networks for the exchange and processing of information, and any other expenditure on technical, scientific and administrative assistance and expertise to which the Commission may need to have recourse for the purposes of the implementation of this Decision.

#### Article 8

##### Monitoring and evaluation

1. The Commission shall regularly monitor the implementation of the Framework Programme and its specific programmes. It shall also examine synergies within the Framework Programme and with other complementary Community programmes and, where possible, synergies with national programmes co-funded by the Union. Where possible, it shall examine the gender dimension and the respect of the principle of non-discrimination in programme activities.

The Commission shall draw up an annual implementation report for the Framework Programme and for each specific programme examining the supported activities in terms of financial implementation, results and, where possible, impact. The annual report on the Entrepreneurship and Innovation Programme shall clearly identify eco-innovation activities.

2. The Framework Programme and its specific programmes shall be subject to interim and final evaluations. Such evaluations shall examine issues such as relevance, coherence and synergies, effectiveness, efficiency, sustainability, utility and, where possible and appropriate, distribution of funding with regard to sectors. The final evaluation shall, in addition, examine the extent to which the Framework Programme as a whole, and each of its specific programmes, has achieved its objectives.

Both interim and final evaluations shall adopt appropriate methodologies to measure the impact of the Framework Programme, and each of the specific programmes, against its objectives, including competitiveness, innovation, entrepreneurship, productivity growth, employment and environment.

Such evaluations shall examine the quality of the services referred to in Article 21(2) provided by the network partners. The interim

evaluations may also include ex post evaluation elements with regard to previous programmes.

3. The interim and final evaluations of the specific programmes and the necessary budgetary allocations shall be included in the respective annual work programmes.

The annual work programmes shall define a set of measurable objectives for each specific action and develop appropriate evaluation criteria and a set of quantitative and qualitative indicators to measure effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the Framework Programme as a whole and the objectives of the relevant specific programme.

The interim and final evaluation of the Framework Programme and the necessary budgetary allocations shall be included in the annual work programme for the Entrepreneurship and Innovation Programme.

4. The interim evaluation of the Framework Programme shall be completed by 31 December 2009 and the final evaluation by 31 December 2011.

The interim and final evaluations of the specific programmes shall be arranged in such a way that their results can be taken into account in the interim and final evaluation of the Framework Programme.

5. The Commission shall communicate the annual implementation reports, the results of the interim and final evaluations of the Framework Programme and of its specific programmes to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

#### Article 9

##### Protection of the Communities' financial interests

1. The Commission shall ensure that, when actions financed under this Decision are implemented, the financial interests of the Community are protected by the application of measures to prevent fraud, corruption and any other illegal activities, by effective checks and by the recovery of amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Regulation (EC, Euratom) No 2988/95, Regulation (Euratom, EC) No 2185/96, and Regulation (EC) No 1073/1999.

2. For the Community actions financed under this Decision, Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96 shall apply to any infringement of a provision of Community law, including infringements of a contractual obligation stipulated on the basis of the Framework Programme, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, by an unjustified item of expenditure.

3. All implementing measures resulting from this Decision shall provide, in particular, for supervision and financial control

by the Commission or any representative authorised by it, and by audits by the European Court of Auditors, if necessary on-the-spot audits.

## TITLE II

### THE SPECIFIC PROGRAMMES

#### CHAPTER I

#### *The Entrepreneurship and Innovation Programme*

##### Section 1

#### Objectives and fields of action

##### Article 10

#### Establishment and objectives

1. The Entrepreneurship and Innovation Programme in support of enterprise, particularly SMEs, entrepreneurship, innovation, including eco-innovation and industrial competitiveness is hereby established.

2. The Entrepreneurship and Innovation Programme shall provide for action to support, improve, encourage and promote:

- (a) access to finance for the start-up and growth of SMEs and investment in innovation activities;
- (b) the creation of an environment favourable to SME cooperation, particularly in the field of cross-border cooperation;
- (c) all forms of innovation in enterprises;
- (d) eco-innovation;
- (e) entrepreneurship and innovation culture;
- (f) enterprise and innovation-related economic and administrative reform.

##### Article 11

#### Access to finance for the start-up and growth of SMEs

Action in relation to access to finance for the start-up and growth of SMEs and for investment in innovation activities, including eco-innovation, may include:

- (a) increasing the investment volumes of risk capital funds and investment vehicles promoted by business angels;
- (b) providing leverage to SME debt financing instruments;

- (c) improving the financial environment for, and the investment readiness of, SMEs.

##### Article 12

#### SME cooperation

Action in relation to SME cooperation may include:

- (a) fostering services in support of SMEs;
- (b) contributing to measures helping and encouraging SMEs to cooperate with other enterprises and other innovation actors across borders, including SME involvement in the field of European and international standardisation;
- (c) promoting and facilitating international business cooperation, including at regional level and through SME networks favouring the coordination and development of their economic and industrial activities.

##### Article 13

#### Innovation activities

Action in relation to innovation may include:

- (a) fostering sector-specific innovation, clusters, innovation networks, public-private innovation partnerships and cooperation with relevant international organisations, and the use of innovation management;
- (b) supporting national and regional programmes for business innovation;
- (c) supporting the take-up of innovative technologies and concepts and the innovative application of existing technologies and concepts;
- (d) supporting services for trans-national knowledge and technology transfer and for the protection and management of intellectual and industrial property;
- (e) developing and exploring new types of innovation services;
- (f) fostering technology and knowledge through data archiving and transfer.

##### Article 14

#### Eco-innovation activities

Action in relation to eco-innovation may include:

- (a) supporting the take-up of environmental technologies and eco-innovative activities;

- (b) co-investment in risk capital funds that provide equity, *inter alia*, for companies investing in eco-innovation in accordance with the procedure laid down in Annex II;
- (c) fostering eco-innovation networks and clusters and public-private partnerships in eco-innovation, developing innovative business services, and facilitating or promoting eco-innovation;
- (d) promoting new and integrated approaches to eco-innovation in fields such as environmental management and the environmentally friendly design of products, processes and services, taking into account their whole life cycle.

#### Article 15

### Entrepreneurship and innovation culture

Action in relation to entrepreneurship and innovation culture may include:

- (a) encouraging entrepreneurial mindsets, skills and culture, and the balancing of entrepreneurial risk and reward, in particular for women and young people;
- (b) encouraging a business environment favourable to innovation, enterprise development and growth;
- (c) supporting policy development and cooperation between actors, including trans-national cooperation of national and regional programme managers, in particular with a view to fostering the SME-friendliness of programmes and measures;
- (d) encouraging the creation and transfer of enterprises.

#### Article 16

### Enterprise and innovation-related economic and administrative reform

Action in relation to enterprise and innovation-related economic and administrative reform may include:

- (a) collecting data, analysing and monitoring performance, and developing and coordinating policy;
- (b) contributing to the definition and promotion of competitiveness strategies related to industry and service sectors;
- (c) supporting mutual learning for excellence in national, regional and local administrations.

#### Section 2

### Implementation

#### Article 17

### Community financial instruments for SMEs

1. Community financial instruments shall be operated with the aim of facilitating access to finance for SMEs in certain phases of their life cycle: seed, start-up, expansion and business transfer. Investments made by SMEs in activities such as technological development, innovation, including eco-innovation, and technology transfer and the cross-border expansion of their business activities shall be included in the scope of the relevant instruments.
2. The instruments referred to in paragraph 1 shall be the following:
  - (a) the High Growth and Innovative SME Facility (GIF);
  - (b) the SME Guarantee (SMEG) Facility;
  - (c) the Capacity Building Scheme (CBS).
3. Implementation arrangements concerning the different instruments are laid down in Annex II.

#### Article 18

### The GIF

1. The GIF shall be operated by the European Investment Fund (EIF) on behalf of the Commission.

The GIF shall carry out the following tasks:

- (a) contributing to the establishment and financing of SMEs and the reduction of the equity and risk capital market gap, which prevents SMEs from exploiting their growth potential, with a view to improving the European venture capital market;
- (b) supporting innovative SMEs with high growth potential, in particular those undertaking research, development and other innovation activities.

2. The GIF shall consist of two windows, as follows:

- the first window, 'GIF1', shall cover early stage (seed and start-up) investments. It shall invest in specialised venture capital funds such as early stage funds, funds operating regionally, funds focused on specific sectors, technologies or research and technological development and funds linked to incubators, which shall in turn provide capital to SMEs. It may also co-invest in funds and investment vehicles promoted by business angels,
- the second window, 'GIF2', shall cover expansion stage investments and shall invest in specialised risk capital funds,

which in turn shall provide quasi-equity or equity for innovative SMEs with high growth potential in their expansion phase. GIF2 investments shall avoid buy-out or replacement capital intended for asset stripping.

GIF may invest in intermediaries by working, where appropriate, with national or regional schemes aimed at developing small business investment companies.

In addition to the funding provided by GIF, the majority of the capital invested in any fund shall be provided by investors operating in circumstances corresponding to the market economy investor principle, irrespective of the legal nature and ownership structure of those investors.

#### Article 19

##### The SMEG Facility

1. The SMEG Facility shall be operated by the EIF on behalf of the Commission.

The SMEG Facility shall carry out the following tasks:

- (a) providing counter-guarantees or, where appropriate, co-guarantees for guarantee schemes operating in the eligible countries;
- (b) providing direct guarantees for any other appropriate financial intermediary.

2. The SMEG Facility shall consist of four windows, as follows:

- the first window, (a) debt financing via loans or leasing, shall reduce the particular difficulties SMEs face in accessing finance either due to the perceived higher risk associated with investments in certain knowledge-related activities such as technological development, innovation and technology transfer or due to the lack of sufficient collateral,
- the second window, (b) microcredit financing, shall encourage financial institutions to play a greater role in the provision of loans of a smaller amount which would normally involve proportionately higher unit handling costs for borrowers with insufficient collateral. In addition to guarantees or counter-guarantees, financial intermediaries may receive grants to partially offset the high administrative costs inherent in microcredit financing,
- the third window, (c) guarantees for equity or quasi-equity investments in SMEs, shall include investments which provide seed capital and/or capital in the start-up phase, as well as mezzanine financing, in order to reduce the particular difficulties which SMEs face because of their weak financial structure and those arising from business transfers,
- the fourth window, (d) securitisation of SME debt finance portfolios, shall mobilise additional debt financing for SMEs

under appropriate risk-sharing arrangements with the targeted institutions. Support for those transactions shall be conditional upon an undertaking by the originating institutions to grant a significant part of the resulting liquidity of the mobilised capital for new SME lending in 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 and shall be negotiated, together with the period of time, individually with each originating institution.

#### Article 20

##### The CBS

1. The CBS shall be operated with international financial institutions, including the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the EIF and the Council of Europe Development Bank (CEB).

The CBS shall carry out the following tasks:

- (a) improving the investment and technology expertise of funds and other financial intermediaries investing in innovative SMEs or SMEs with growth potential;
- (b) stimulating the supply of credit to SMEs by enhancing the credit appraisal procedures for SME lending.

2. The CBS shall consist of the Seed Capital Action and the Partnership Action.

The Seed Capital Action shall provide grants to stimulate the supply of venture capital for innovative SMEs and other SMEs with growth potential, including those in the traditional economy, through support for seed and start-up funds or similar organisations. Support may also be provided for the long-term recruitment of additional staff with specific investment or technology expertise.

The Partnership Action shall provide grants to financial intermediaries to cover the cost of technical assistance to improve their credit appraisal procedures for SME debt financing, in order to stimulate the supply of finance to SMEs in countries with low banking intermediation.

For the purpose of the Partnership Action 'low intermediation' shall relate to banking in countries where domestic credit as a percentage of Gross Domestic Product is significantly below the Community average according to relevant data established by the European Central Bank or the International Monetary Fund.

The Partnership Action shall accompany the credit lines or the risk-sharing provided by international financial institutions to partner banks or financial institutions from the eligible countries. A significant part of the action shall relate to improving banks' and other financial institutions' capacity to

assess the commercial viability of projects with a significant eco-innovation component.

*Article 21*

**Services in support of business and innovation**

1. Services in support of business and innovation, in particular for SMEs, shall be encouraged.
2. Taking into account the established experience and skills of existing European business support networks, financial support may be granted to network partners to provide, in particular:
  - (a) information, feedback, business cooperation and internationalisation services;
  - (b) services for innovation and for the transfer of both technology and knowledge;
  - (c) services encouraging the participation of SMEs in the Seventh Framework RTD Programme.

Details concerning such services are laid down in Annex III.

3. The Commission shall select network partners through calls for proposals in relation to the various services referred to in paragraph 2. Following those calls for proposals the Commission may establish a framework partnership agreement with selected network partners specifying the type of activities to be offered, the procedure for awarding grants to them and the general rights and obligations of each party. The framework partnership may cover the duration of the programme.

4. In addition to the services referred to in paragraph 2, the Commission may provide financial support for the implementation of other activities within the scope of the Framework Programme following calls for proposals which may be restricted to the network partners. Such services shall ensure that interested parties and potential applicants may obtain comprehensive assistance relating to the possibilities for support under the Framework Programme.

5. The Commission shall support the network partners by making available the appropriate coordination and operational support. Organisations established in countries which are not participating in the Framework Programme may be permitted to benefit from that coordination and operational support.

6. The Commission shall ensure that network partners cooperate with each other and, in the event that a network partner is unable to address an enquiry directly, it shall refer the enquiry to a competent network partner.

*Article 22*

**Innovation and eco-innovation pilot and market replication projects**

The Community shall provide support to projects concerned with the first applications or market replication of innovative or eco-innovative techniques, products or practices of Community relevance, which have already been technically demonstrated with success but which, owing to residual risk, have not yet significantly penetrated the market. These shall be designed to promote broader utilisation of such techniques, products or practices within the participating countries and facilitate their market uptake.

*Article 23*

**Policy analyses, development, coordination and twinning**

The following may be undertaken in support of policy analyses, development and coordination with participating countries:

- (a) studies, data collection, surveys and publications, based where possible on official statistics;
- (b) twinings and meetings of experts, including experts from public institutions, experts sent by SMEs and other interested parties, conferences and other events;
- (c) awareness raising, networking and other relevant activities;
- (d) benchmarking of national and regional performances, and work on good practices, including their dissemination and implementation.

*Article 24*

**Entrepreneurship and Innovation Programme support measures**

The Commission shall regularly undertake the following:

- (a) analysis and monitoring of competitiveness and sectoral issues, including for the Commission's annual report on the competitiveness of European industry;
- (b) preparation of impact assessments of Community measures of particular relevance for the competitiveness of enterprises and their publication with a view to identifying areas of existing legislation requiring simplification or the need for new legislative measures to make innovation more attractive in the Community;
- (c) evaluation of specific aspects or specific implementation measures in relation to the Entrepreneurship and Innovation Programme;
- (d) dissemination of appropriate information in relation to the Entrepreneurship and Innovation Programme.



## Section 3

**Annual work programme***Article 25***Annual work programme**

The annual work programme shall set out in detail, and in line with the objectives set out in Article 10:

- (a) measures needed for its implementation;
- (b) priorities;
- (c) qualitative and quantitative objectives;
- (d) appropriate evaluation criteria and qualitative and quantitative indicators for analysing effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the specific programmes and the Framework Programme as a whole;
- (e) operational timetables;
- (f) the rules for participation;
- (g) the criteria for the selection and evaluation of the measures.

The annual work programme shall clearly identify measures promoting eco-innovation.

Activities under Article 24 shall not be covered by the annual work programme.

## CHAPTER II

**The ICT Policy Support Programme**

## Section 1

**Objectives and fields of action***Article 26***Establishment and objectives**

1. The ICT Policy Support Programme in support of ICT policy is hereby established.
2. The ICT Policy Support Programme shall provide for the following actions:
  - (a) development of the Single European information space and strengthening of the internal market for ICT products and services and ICT-based products and services;
  - (b) stimulation of innovation through the wider adoption of and investment in ICT;

- (c) development of an inclusive information society and more efficient and effective services in areas of public interest, and improvement of quality of life.

3. The actions referred to in paragraph 2 shall be carried out with a particular emphasis on the promotion and awareness-raising of the opportunities and benefits of ICT for citizens, public authorities and businesses, in particular SMEs.

*Article 27***The single European information space**

Action in relation to the single European information space shall aim to:

- (a) ensure seamless access to ICT-based services and establish appropriate framework conditions for the rapid, appropriate and effective convergence of digital communications and services, incorporating, inter alia, interoperability, the use of open standards, and security and trust aspects;
- (b) improve the conditions for the development of digital content, taking into account multilingualism and cultural diversity;
- (c) monitor the European information society, through data collection and analysis of the development, availability and use of digital communication services, including the growth of internet, access to and take-up of broadband as well as developments of content and services.

*Article 28***Innovation through the wider adoption of and investment in ICT**

Action in relation to innovation through the wider adoption of and investment in ICT shall aim to:

- (a) promote innovation in processes, services and products enabled by ICT, in particular in SMEs and public services, taking into account the necessary skills requirements;
- (b) facilitate public and private interaction as well as partnerships for accelerating innovation and investments in ICT;
- (c) promote and raise awareness of the opportunities and benefits of ICT and its new applications for citizens and businesses, including enhancing confidence in and openness to new ICT, and stimulating debate at the European level on emerging ICT trends and developments.

*Article 29***An inclusive information society, more efficient and effective services in areas of public interest and improved quality of life**

Actions in relation to the development of an inclusive information society and more efficient and effective services in areas of public interest, and the improvement of quality of life shall aim to:

- (a) widen ICT, including digital content, accessibility and digital literacy;
- (b) reinforce trust and confidence as well as support of ICT use, addressing, in particular, privacy concerns;
- (c) improve the quality, efficiency, availability and accessibility of electronic services in areas of public interest and for ICT-enabled participation, including, where appropriate, interoperable pan-European or cross-border public services as well as the development of common interest building blocks and the sharing of good practices.

*Section 2***Implementation***Subsection 1***Implementation of projects, best practice actions and thematic networks***Article 30***General**

The ICT Policy Support Programme may be implemented by projects, best practice actions and thematic networks, including actions for wide-scale testing and demonstration of innovative public services with a pan-European dimension.

Projects, best practice actions and thematic networks shall aim to stimulate the deployment and best use of innovative ICT-based solutions, in particular for services in areas of public interest and for SMEs. Community support shall also facilitate the coordination and the implementation of actions for developing the information society across the Member States.

*Article 31***Projects, best practice actions and thematic networks**

1. The following shall be supported:
  - (a) projects including implementation, pilot and market replication projects;
  - (b) best practice actions to spread knowledge and share experience across the Community;
  - (c) thematic networks bringing together a variety of stakeholders around a given objective so as to facilitate coordination activities and the transfer of knowledge.

2. The projects shall aim to promote innovation, technology transfer and the dissemination of new technologies that are ready for market uptake.

The Community may award a grant to contribute to the budget of the projects referred to in paragraph 1(a).

3. The best practice actions shall be conducted in clusters addressing specific themes and linked through thematic networks.

The Community contribution for the actions referred to in paragraph 1(b) shall be limited to the direct costs deemed necessary or appropriate for achieving the specific objectives of the action.

4. The thematic networks may be linked to best practice actions.

Support for thematic activities shall be granted towards the additional eligible costs of coordinating and implementing the network. The Community contribution may cover the additional eligible costs of those measures.

*Subsection 2***Other provisions***Article 32***Applications**

Applications for Community support for projects, best practice actions and thematic networks referred to in Article 31 shall include a financial plan listing all the components of the funding of the projects, including the financial support requested from the Community, and any other requests for support from other sources. Applicants making applications for other forms of Community support such as services or studies may also be required to provide information concerning the financial plan where appropriate.

*Article 33***Policy analyses, development and coordination with participating countries**

The following shall be undertaken in support of policy analyses, development and coordination with participating countries:

- (a) studies, data collection, surveys, and publications, based, where possible, on official statistics;
- (b) meetings of experts, including experts from public institutions, experts sent by SMEs and other interested parties, conferences and other events;
- (c) awareness-raising, networking and other relevant activities;

- (d) benchmarking of national performances and work on good practices, including their dissemination and implementation.

*Article 34*

**Promotion, communication, information sharing and dissemination**

1. The following shall be undertaken in support of the implementation of the ICT Policy Support Programme or the preparation of future activities:

- (a) promotion, dissemination, information and communication activities;
- (b) exchange of information, knowledge and experience, the staging of conferences, seminars, workshops or other meetings and the management of clustered activities.

2. Measures devoted to the commercialisation of products, processes or services, marketing activities and sales promotion shall not be eligible for support.

*Article 35*

**Projects of common interest: procurement based on technical specifications determined in coordination with Member States**

Where it is necessary in order to achieve the objectives of the ICT Policy Support Programme, and where there is a clear common interest of Member States as concerns European-level deployment of products, services, core service components or building blocks, the Commission may establish projects of common interest comprising necessary technical and organisational tasks. Existing initiatives shall be taken into consideration in order to avoid the duplication of efforts.

The Commission shall, in coordination with the Member States, agree on common technical specifications and implementation schedules for such projects. On the basis of those common technical specifications and implementation schedules, the Commission shall issue calls for tender for implementation of the projects concerned. Such calls for tender shall be carried out solely by the Commission in accordance with Community procurement rules.

Section 3

**Annual work programme**

*Article 36*

**Annual work programme**

The annual work programme shall set out in detail, and in line with the objectives set out in Article 26:

- (a) measures needed for its implementation;
- (b) priorities;
- (c) qualitative and quantitative objectives;

- (d) appropriate evaluation criteria and qualitative and quantitative indicators for analysing effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the specific programmes and the Framework Programme as a whole;

- (e) operational timetables;

- (f) the rules for participation;

- (g) the criteria for the selection and evaluation of the measures.

CHAPTER III

**The Intelligent Energy-Europe Programme**

Section 1

**Objectives and fields of action**

*Article 37*

**Establishment and objectives**

1. The Intelligent Energy — Europe Programme in support of energy efficiency, renewable energy sources and energy diversification is hereby established. The programme shall contribute to ensuring secure, sustainable energy for Europe, while enhancing European competitiveness.

2. The Intelligent Energy — Europe Programme shall provide for action, in particular:

- (a) to foster energy efficiency and the rational use of energy resources;
- (b) to promote new and renewable energy sources and to support energy diversification;
- (c) to promote energy efficiency and the use of new and renewable energy sources in transport.

*Article 38*

**Operational objectives**

In operational terms the Intelligent Energy — Europe Programme shall aim to:

- (a) provide the elements necessary for the improvement of sustainability, the development of the potential of cities and regions, as well as for the preparation of the legislative measures needed to attain the related strategic objectives; develop the means and instruments to follow up, monitor and evaluate the impact of the measures adopted by the Community and its Member States in the fields addressed by that programme;
- (b) boost investment across Member States in new and best performing technologies in the fields of energy efficiency, renewable energy sources and energy diversification, including in transport, by bridging the gap between the successful demonstration of innovative technologies and

their effective, broad market uptake in order to attain leverage of public and private sector investment, promote key strategic technologies, bring down costs, increase market experience and contribute to reducing the financial risks and other perceived risks and barriers that hinder this type of investment;

- (c) remove the non-technological barriers to efficient and intelligent patterns of energy production and consumption by promoting institutional capacity building at, inter alia, local and regional level, by raising awareness, notably through the educational system, by encouraging exchanges of experience and know-how among the main players concerned, business and citizens in general and by stimulating the spread of best practices and best available technologies, notably by means of their promotion at Community level.

#### Article 39

### Energy efficiency and rational use of resources (SAVE)

Action to foster energy efficiency and the rational use of energy resources may include:

- (a) improvement of energy efficiency and the rational use of energy, in particular in the building and industry sectors, with the exception of actions covered by Article 41;
- (b) supporting the preparation of legislative measures and their application.

#### Article 40

### New and renewable resources (Altener)

Action to promote new and renewable energy resources may include:

- (a) promoting new and renewable energy sources for centralised and decentralised production of electricity, heat and cooling, and thus supporting the diversification of energy sources, with the exception of actions covered by Article 41;
- (b) integrating new and renewable energy sources into the local environment and the energy systems;
- (c) supporting the preparation of legislative measures and their application.

#### Article 41

### Energy in transport (STEER)

Action to promote energy efficiency and the use of new and renewable energy sources in transport may include:

- (a) supporting initiatives relating to all energy aspects of transport, and the diversification of fuels;
- (b) promoting renewable fuels and energy efficiency in transport;

- (c) supporting the preparation of legislative measures and their application.

#### Article 42

### Integrated initiatives

Action to combine several of the specific fields referred to in Articles 39, 40 and 41, or relating to certain Community priorities, may include:

- (a) integrating energy efficiency and renewable energy sources in several sectors of the economy;
- (b) combining various instruments, tools and actors within the same action or project.

#### Section 2

### Implementation

#### Article 43

### Promotion and dissemination projects

The following shall be supported:

- (a) strategic studies on the basis of shared analysis and regular monitoring of market developments and energy trends for the preparation of future legislative measures or for the review of existing legislation, including with regard to the functioning of the internal energy market, for the implementation of the medium and long-term strategy in the energy field to promote sustainable development, as well as for the preparation of long-term voluntary commitments with industry and other stake-holders and for the development of standards, labelling and certification systems, where appropriate also in cooperation with third countries and international organisations;
- (b) creation, enlargement or reorganisation of structures and instruments for sustainable energy development, including local and regional energy management, and the development of adequate financial products and market instruments, building on experience from past and present networks;
- (c) promotion of sustainable energy systems and equipment in order to further accelerate their penetration of the market and stimulate investment to facilitate the transition from the demonstration to the marketing of more efficient technologies, awareness campaigns and the creation of institutional capabilities;
- (d) development of information, education and training structures, the utilisation of results, the promotion and dissemination of know-how and best practices involving all consumers, dissemination of results of the actions and projects and cooperation with the Member States through operational networks;

- (e) monitoring of the implementation and the impact of Community legislative and support measures.

*Article 44*

**Market replication projects**

The Community shall provide support to projects concerned with the market replication of innovative techniques, processes, products or practices of Community relevance, which have already been technically demonstrated with success. These shall be designed to promote broader utilisation of such techniques, processes, products or practices within the participating countries and facilitate their market uptake.

*Section 3*

**Annual work programme**

*Article 45*

**Annual work programme**

The annual work programme shall set out in detail, and in line with the objectives set out in Article 37:

- (a) measures needed for its implementation;
- (b) priorities;
- (c) qualitative and quantitative objectives;
- (d) appropriate evaluation criteria and qualitative and quantitative indicators to analyse effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the specific programmes and the Framework Programme as a whole;
- (e) operational timetables;
- (f) the rules for participation;
- (g) the criteria for the selection and evaluation of the measures.

TITLE III

**GENERAL AND FINAL PROVISIONS**

*Article 46*

**Committees**

1. The Commission shall be assisted by the following Committees:
  - (a) the Committee for the Entrepreneurship and Innovation Programme, called the EIP Management Committee (EIPC);
  - (b) the Committee for the ICT Policy Support Programme, called the ICT Management Committee (ICTC);
  - (c) the Committee for the Intelligent Energy Europe Programme, called the IEE Management Committee (IEEC).

Full coordination and cooperation across the whole Framework Programme, including strategic management, and coherent overall implementation, shall be ensured by the Commission, assisted by the EIPC, in close collaboration with the ICTC and the IEEC.

2. For the committees referred to in paragraph 1, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committees referred to in paragraph 1 shall adopt their rules of procedure.

*Article 47*

**User manual**

1. After the entry into force of the Framework Programme, the Commission shall publish a readable and user-friendly user manual establishing a clear, simple and transparent framework of general principles for the participation of beneficiaries in the Framework Programme. The user manual shall, in particular, facilitate the participation of SMEs.

2. The Commission shall ensure that the time between the submission of applications and the notification of evaluation results is as short as possible. The evaluation result shall be sent out within a reasonable time.

*Article 48*

**Strategic Advisory Board on Competitiveness and Innovation**

The Commission shall be advised by a Strategic Advisory Board on Competitiveness and Innovation composed of representatives of industry and business associations, including those representing SMEs, and other experts. Their expertise should be related to the sectors and issues addressed by the Framework Programme, including financing, ICT, energy and eco-innovation.

*Article 49*

**Repeal**

Decision 96/413/EC is hereby repealed.

*Article 50*

**Transitional measures**

The implementation measures in pursuance of the objective set out in Article 27(b) shall be carried out under Decision No 456/2005/EC until 31 December 2008.

Thereafter, the actions initiated under Decision No 456/2005/EC on or before that date shall be administered in accordance with that Decision, except that the Committee established by that



Decision shall be replaced by the ICTC established by Article 46 (1)(b) of this Decision.

For services referred to in Article 21(2)(a), the Commission may, until 31 December 2007, continue operating the Euro Info Centre Network and concluding annual specific grant agreements with its members, funded under this Framework Programme, and maintain the operational arrangements of the multiannual programme for enterprise and entrepreneurship established by Decision 2000/819/EC.

*Article 51*

**Entry into force**

This Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Done at Strasbourg, 24 October 2006.

*For the European Parliament*

*The President*

J. BORRELL FONTELLES

*For the Council*

*The President*

P. LEHTOMÄKI

## ANNEX I

**Indicative budgetary breakdown**

The indicative budgetary allocations for the specific programmes shall be the following:

- (a) 60 % of the overall budget for the pursuance of the Entrepreneurship and Innovation Programme, of which approximately one fifth shall be allocated to promoting eco-innovation;
  - (b) 20 % of the overall budget for the pursuance of the ICT Policy Support Programme;
  - (c) 20 % of the overall budget for the pursuance of the Intelligent Energy — Europe Programme.
-

## ANNEX II

**Implementation arrangements for the Community financial instruments for SMEs referred to in Article 17**

## 1. ARRANGEMENTS COMMON TO ALL COMMUNITY FINANCIAL INSTRUMENTS FOR SMES

A. **Budget**

The budgetary allocation shall cover the full cost of each instrument, including payment obligations towards financial intermediaries such as losses from guarantees, management fees for the EIF and the international financial institutions managing the Union's resources, as well as any other eligible costs or expenses.

The transfer of resources between instruments shall be kept flexible in order to respond to new developments and changing market conditions during the Framework Programme.

B. **Trust accounts**

Separate Trust accounts shall be set up by the EIF and the relevant international financial institutions to hold the budgetary funds relating to each instrument. Such accounts may be interest-bearing. Interest received on or before 31 December 2013 may be added to the resources and can be used for the purpose of the respective instrument.

Payments made by the trustee to honour payment obligations towards financial intermediaries shall be debited from the corresponding Trust account. Amounts to be paid back by the trustee to the general budget of the European Union, the trustee's management fees and other eligible costs and expenses shall be debited from the Trust account in accordance with the terms set out in the agreements between the Commission and the trustee. The Trust account shall be credited with receipts originating from the Commission, interest and, depending on the instrument, with the proceeds of realised investments (GIF) or with commitment and guarantee fees as well as other receivables (SMEG Facility).

After 31 December 2013, any balances on the Trust accounts, other than funds committed and not yet debited and funds reasonably required to cover eligible costs and expenses, shall be returned to the general budget of the European Union.

C. **Fees**

An appropriate fee policy shall apply to the operation of the instruments. The fees shall be established by the Commission in line with market practices and shall take into account:

- the overall duration of the respective instrument and the corresponding monitoring requirements which extend beyond the budgetary commitment period,
- the eligible countries,
- the degree of novelty and complexity of the instrument,
- the associated number of activities such as market research, identification of and negotiations with intermediaries, structuring of deals, closing, monitoring and reporting.

D. **Visibility and awareness-raising**

Each intermediary shall provide an appropriate level of visibility and transparency to the support given by the Community, including adequate information on the financial opportunities made available by the Framework Programme.

It shall be ensured that the final beneficiaries are adequately informed of the available financing opportunities.

## 2. IMPLEMENTATION OF THE GIF

### A. Introduction

Fiduciary, management and monitoring aspects shall be agreed between the Commission and the EIF. The Commission shall apply specific guidelines on treasury management.

### B. Intermediaries

GIF1 and GIF2 shall target commercially oriented intermediaries managed by independent teams combining the appropriate mix of skills and experience. The intermediaries shall be selected in conformity with best business and market practices in a transparent and non-discriminatory manner, avoiding any conflict of interest with the aim of working through a wide range of specialised funds or similar structures.

### C. Eligibility criteria

GIF shall be complementary to the own-resource based activities of the EIB Group including the EIF by adopting an investment policy involving a higher risk profile, both as regards intermediary funds and their investment policies.

#### GIF1

GIF1 shall invest in intermediary venture capital funds and other investment vehicles investing in SMEs up to 10 years old, typically starting from pre-A (seed) and A (early stage) rounds and providing follow-on investment where appropriate. The usual maximum aggregate investment in an intermediary venture capital fund shall be 25 % of the total capital held by the relevant fund, or up to 50 % for new funds likely to have a particularly strong catalytic role in the development of venture capital markets for a specific technology or in a specific region as well as business angels' investment vehicles. The maximum aggregate investment in an intermediary venture capital fund shall be 50 % in those cases where the fund's investment focus is on SMEs active in eco-innovation. At least 50 % of the capital invested in any fund shall be provided by investors operating in circumstances corresponding to normal market conditions (under the 'market economy investor principle'), irrespective of the legal nature and ownership structure of the investors providing that part of the capital. No commitment in a single fund shall exceed EUR 30 million. GIF1 may co-invest with EIF own resources or resources under the EIB mandate or other resources managed by the EIF.

#### GIF2

GIF2 shall invest in intermediary risk capital funds investing in SMEs, typically in B and C (expansion) rounds. The usual maximum aggregate investment in an intermediary risk capital fund shall be 15 % of the total capital held by the relevant fund, or up to 25 % for:

- new funds likely to have a particularly strong catalytic role in the development of risk capital markets for a specific technology or in a specific region,
- funds the main investment focus of which is on SMEs active in eco-innovation,
- funds set up by first time management teams.

In the case of co-investment of GIF2 resources with EIF own resources or resources under the EIB mandate or other resources managed by the EIF, the maximum GIF2 contribution shall be 15 %. At least 50 % of the capital invested in any fund shall be provided by investors operating in circumstances corresponding to normal market conditions (under the market economy investor principle), irrespective of the legal nature and ownership structure of the investors providing that part of the capital. No commitment in a single fund shall exceed EUR 30 million.

### D. Investment *pari passu*

The investment made under the GIF in an intermediary fund shall rank *pari passu* with the private investors.

**E. Cornerstone role**

For new funds likely to have a particularly strong catalytic role in the development of venture capital markets for a specific technology or in a specific region, EIF may play the role of a cornerstone investor.

**F. Transparency of conditions**

EIF shall ensure that terms and conditions of financing under GIF1 and GIF2 are transparent and comprehensible.

**G. Life of the GIF**

The GIF shall be a long-term facility which will usually take five- to 12-year positions in intermediary funds. In any case, life of investments under the GIF shall not exceed 19 years from the time of signature of the delegation agreement between the Commission and the EIF. Suitable exit strategies shall need to be defined in the agreements between the EIF and the intermediaries.

**H. Realisation of investments**

As most of the investments to be made under the GIF shall be in unquoted, illiquid entities, the realisation of those investments shall be based on the distribution of the proceeds received by the intermediary from the sale of their investments in SMEs.

**I. Reinvestment of proceeds from realised investments**

Proceeds, including dividends and reimbursements received by the EIF before 31 December 2013, shall be added to the resources of the GIF and used for the purpose of the GIF.

**3. IMPLEMENTATION OF THE SMEG FACILITY****A. Introduction**

Fiduciary, management and monitoring aspects shall be agreed between the Commission and the EIF and shall be in line with normal commercial practices. The Commission shall apply specific guidelines on treasury management.

**B. Intermediaries**

Intermediaries shall be chosen from among the guarantee schemes already operating or which may be established in the eligible countries, including mutual guarantee organisations, and any other appropriate financial institution. Selection procedures shall be transparent and non-discriminatory, avoiding any conflict of interest.

Intermediaries shall be selected in conformity with best market practice with regard to the effect on:

- the volume of financing (debt, equity or quasi equity) made available to SMEs, and/or
- SMEs' access to finance, and/or
- risk-taking in SME financing by the intermediary concerned.

**C. Eligibility**

The financial criteria governing the eligibility under the SMEG Facility shall be determined for each intermediary on the basis of their activities, with the aim of reaching as many SMEs as possible. These rules shall reflect market conditions and practices in the relevant territory.

Financing for the acquisition of tangible and intangible assets, including innovation activities, technological development and the acquisition of licenses shall be eligible.



Criteria relating to the fourth SMEG window, (d) securitisation of SME debt financing portfolios, shall include individual and multi-seller transactions as well as multi-country transactions. Eligibility shall be based on best market practices, in particular regarding the credit quality and risk diversification of the securitised portfolio.

**D. Terms of the guarantees**

The guarantees issued by the EIF on behalf of the Commission under the (a) debt financing, (b) microcredit, and (c) equity or quasi-equity windows of the SMEG Facility shall cover a part of the risk taken by the financial intermediary in a financing portfolio of individual transactions. The fourth window of the SMEG Facility, (d) securitisation, shall involve sharing the risk of certain securitised tranches which are senior to the first loss piece or leaving the risk of a significant part of the first loss piece to the originator and sharing the risk of the remaining part.

The guarantees given by the EIF relating to the (a) debt financing, (b) microcredit, (c) equity or quasi equity windows of the SMEG Facility shall usually rank *pari passu* with the guarantees or, where appropriate, with the financing given by the intermediary.

The EIF may charge to a financial intermediary a fee calculated on amounts committed but not used according to an agreed schedule (commitment fees) as well as guarantee fees. It may also charge fees related to individual securitisation transactions.

**E. EIF's capped maximum cumulative losses**

The cost of the SMEG Facility to the general budget of the European Union shall be capped so that it does not, under any circumstances, exceed the budgetary allocation made available to the EIF under this SMEG Facility. There shall be no contingent liability on the budget.

The EIF's obligation to pay its share of the intermediary's losses shall continue until the cumulative amount of payments made to cover losses from a specific financing portfolio, reduced where appropriate by the cumulative amount of corresponding loss recoveries, reaches a pre-agreed amount, after which the EIF's guarantee shall be automatically cancelled.

**F. Loss recoveries and other revenue payable to the Trust account**

Any loss recoveries received from a given intermediary shall be credited to the Trust account and shall be taken into account in the calculation of the EIF's capped maximum cumulative losses towards the intermediary. Any other revenues, such as commitment fees and guarantee fees, shall be credited to the Trust account and, if received before 31 December 2013, shall be added to the resources of the SMEG Facility.

**G. Duration of the SMEG Facility**

Individual SME guarantees may have a maturity of up to 10 years.

**4. IMPLEMENTATION OF THE CBS**

**A. Introduction**

Implementation details for the Seed Capital action and the Partnership Action, including fiduciary, management and monitoring aspects, shall be subject to an agreement between the Commission and the EIF or the relevant international financial institutions.

Intermediaries shall be selected in conformity with best market practices.

Selection procedures for the provision of technical assistance shall be transparent and non-discriminatory, avoiding any conflict of interest.

**B. Seed Capital Action**

The Seed Capital Action shall be operated on a trust basis. The budgetary allocation shall cover the full cost of the action, including its management fees and any other eligible costs or expenses. The grants provided shall

support investment funds which include seed capital in their global investment programme, by covering part of the resulting management costs.

#### C. **Partnership Action**

The Partnership Action shall be operated through the EIF or relevant international financial institutions. It shall cover technical assistance, management fees and other eligible costs supporting capacity building.

### 5. EVALUATION

The external evaluations shall be carried out by independent experts, taking account of the impact of the Growth and Employment Initiative established under Council Decision 98/347/EC of 19 May 1998 on measures of financial assistance for innovative and job-creating small and medium-sized enterprises (SMEs) — the growth and employment initiative <sup>(1)</sup> and of the multiannual programme for enterprise and entrepreneurship, and in particular for SMEs. The external evaluations shall assess the impact of the Community financial instruments for SMEs and provide a qualitative and quantitative analysis of achieved results, in particular, by assessing the leverage effect and cost-benefit of each instrument. The evaluation reports shall present statistical data for the Union as a whole and for the individual Member States and the other participating countries including:

- for the GIF, the number of SMEs reached and the number of jobs created,
- the rate of return to investors,
- for the SMEG Facility, the number and value of loans provided by the financial intermediaries to SMEs, the number of SMEs reached and the number and value of loans defaulted,
- for the Seed Capital Action, the number of organisations supported and the volume of seed capital investments,
- for the Partnership Action, the number of intermediaries supported and SMEs reached,
- any specific outputs relating to eco-innovation.

Appropriate visibility shall be given to the results and lessons learned from the reports of the external evaluators and to the sharing of best practices among stakeholders.

---

<sup>(1)</sup> OJ L 155, 29.5.1998, p. 43.

## ANNEX III

**Details of the services in support of business and innovation referred to in Article 21**

- (a) Information, feedback, business cooperation and internationalisation services
- disseminating information relating to the functioning and opportunities of the internal market for goods and services, including signposting to tender opportunities,
  - promoting pro-actively Community initiatives, policies and programmes that are relevant for SMEs and providing information to SMEs on the application procedures for such programmes,
  - operating tools to measure the impact of existing legislation on SMEs,
  - contributing to the carrying-out of impact assessment studies of the Commission,
  - operating other appropriate means to engage SMEs in the European policy-making process,
  - assisting SMEs to develop cross-border activities and international networks,
  - supporting SMEs to find relevant partners from the private or public sectors through appropriate tools.
- (b) Services for innovation and for the transfer of both technology and knowledge
- disseminating information and raising awareness regarding innovation-related policies, legislation, and support programmes,
  - engaging in the dissemination and exploitation of research results,
  - providing brokerage services for technology and knowledge transfer, and for partnership building between all kinds of innovation actors,
  - stimulating the capacity of firms, especially SMEs to innovate,
  - facilitating linkage to other innovation services including intellectual property-related services.
- (c) Services encouraging the participation of SMEs in the Seventh Framework RTD Programme
- raising awareness among SMEs regarding the Seventh Framework RTD Programme,
  - helping SMEs to identify their research and technological development needs and to find relevant partners,
  - assisting SMEs in the preparation and coordination of project proposals for participation in the Seventh Framework RTD Programme.
-